



TO: Zoning Board of Appeals Applicants and Affiliates

FROM: Planning Department Staff

RE: ZBA Application Package

The South Windsor Zoning Board of Appeals has established procedures for applying for variances and appeals from Zoning Enforcement Officer decisions. The fee for all variance applications is **\$190.00**, and requires notification of abutting property owners (including those across the street) in writing by certificate of mailing. A copy of the letter sent to abutters along with copies of the receipts must be submitted within 7 days of filing the application.

The Planning Department is responsible for reviewing applications and plans for completeness, ensuring that proper administrative procedures are followed, and acting as a liaison between applicants and the Agency. You, as the applicant, are responsible for the overall familiarization with the hardships associated with the request. Presentations should be limited to hardships associated with the property.

The following is an index to the application package. Please review your submittal carefully and ensure that you provide all the information requested. If you have questions, feel free to call the Planning Department at 644-2511, ext. 329.

### **INDEX TO APPLICATION PACKAGE**

1. Sample letter to abutting property owners.
2. Town of South Windsor meeting information and application requirement checklist.
3. Town of South Windsor Zoning Board of Appeals application.
4. Town of South Windsor Zoning Board of Appeals informational sheet.



## Sample Letter to Abutters

The following is a sample letter to abutting property owners. The applicant shall also notify abutting property owners (including those across the street), in writing by certified mail (or certificate of mailing), that an application is pending before the Board and that a public hearing will be held. Such notices shall be mailed no later than seven (7) calendar days after the application is submitted to the Board. The applicant is required to provide a copy of the certified letter to the Planning Department and a copy of the certified mailed receipt(s) at least 10 days before the application is scheduled for public hearing by the Board

Names of current abutters must be submitted per records from Assessor's Office. (This letter is offered as a sample, feel free to modify the letter and provide abutters with more specific information on your project if you so desire.)

Date

(Abutter's Name)  
(Address)

CERTIFIED MAIL

Dear Property Owner:

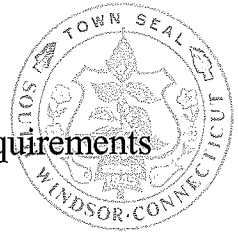
Re: (Project Name and location)(owner)

In accordance with Rules and Regulations of the Zoning Board of Appeals, you are hereby notified that an application has been filed on the property abutting yours at *{fill in address of property}* and is subject to a hearing by the Zoning Board of Appeals. The application and plans are on file with the South Windsor Planning Department.

All members of the public are invited to the hearing to ask questions and/or give comments. You may also submit written comments regarding the application prior to the hearing if you so desire. For further information regarding the specific date this application will be heard please contact the Planning Department, 644-2511, ext. 329.

Sincerely,

(Owner/Agency Signature)  
(Address/telephone #)



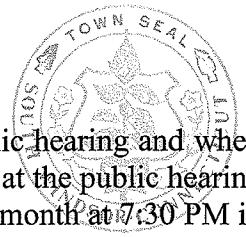
## Town of South Windsor Zoning Board of Appeals Application Requirements

VARIANCE REQUEST       Area Variance       Use Variance:

1.  Fill out application **completely** - typed or printed in ink with required signatures. (If applicant is not the owner, owner signature is required on the application. In lieu of the owner's signature, a letter from the owner authorizing the applicant to act as its representative is required.) **Ten (10) copies of the application must be submitted.**
2.  A surveyed site/plot plan (Class D or better) must be submitted with the application. The plan shall include the following:
  - Name of property owner, address of property
  - Property lines, streets, building lines, easement lines
  - Location and size of all existing and proposed structures on the property
  - **Ten (10) copies of the survey/plot plan must be submitted.**
3. If this is a request for a variance:
  - A copy of the legal description and deed of the property must be included with the application. This can be obtained in the Town Clerk's Office. **Two (2) copies of the legal description and deed must be submitted.**
  - Abutting neighbors and properties across the street must be notified of the variance request, via certificate of mailing. (A sample letter is included.) Names of abutting neighbors can be obtained at the Town's Assessor's Office. The applicant must submit a copy of the letter along with the certified receipts to the Planning Department within 7 days of filing the application. **Two (2) copies of the abutter notification and evidence of mailing must be submitted.**
4.  If this is an application for a sign variance, in addition to the above, there is a supplementary packet that must be filled out and submitted. This is additional information for the Board.
5.  Fee for the application is \$190.00. Checks should be made out to the "Town of South Windsor".
6. When the application is submitted to the Planning Department, the applicant will be given a ZBA sign which is to be displayed on the property at least 10 days prior to the public hearing, clearly visible from all abutting streets.
7. The applicant will be notified by mail of the time, date, and place of the public hearing and when the ZBA sign must be posted. The applicant (or a representative) must be present at the public hearing to present the application. Meetings are generally held the first Thursday of every month at 7:30 PM in the South Windsor Town Hall. Cutoff for applications is the second Thursday of the preceding month.

### APPEAL OF ZONING ENFORCEMENT/DECISION

1.  Fill out application **completely** - typed or printed in ink with required signatures submitted in accordance with the ZBA cutoff dates. There are no fees for a Zoning Enforcement Appeal. **Ten (10) copies of the application must be submitted.**



2.  The applicant will be notified by mail of the time, date, and place of the public hearing and when the ZBA sign must be posted. The applicant (or a representative) must be present at the public hearing to present the application. Meetings are generally held the first Thursday of every month at 7:30 PM in the South Windsor Town Hall. Cutoff for applications is the second Thursday of the preceding month.



# TOWN OF SOUTH WINDSOR ZONING BOARD OF APPEALS APPLICATION

VARIANCE Application # \_\_\_\_\_

APPEAL OF ZONING ENFORCEMENT/DECISION Date Rec'd \_\_\_\_\_

Applicant: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone #: \_\_\_\_\_

Property Owner: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone #: \_\_\_\_\_

Location of Subject Property in Question: \_\_\_\_\_

Zone \_\_\_\_\_

- |  |                              |                             |
|--|------------------------------|-----------------------------|
| 1. Are there wetlands on the property?                   | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| 2. Is any part of the premises within 500' of town line? | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| 3. Is this property within the CT Water Aquifer area?    | <input type="checkbox"/> YES | <input type="checkbox"/> NO |

(If yes, the applicant must file an application with the CT Water Company and submit copy with their application.)

Requesting a Variance to Zoning Regulation Section(s): \_\_\_\_\_

Written Description of the variance request or Appeal of Zoning Enforcement Order/Decision:  
(Attach additional sheet if needed)

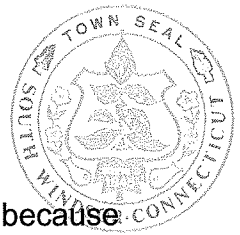
\_\_\_\_\_

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For Variance request only:

1. Strict application of the regulations would produce **UNDUE HARDSHIP** because

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2. The hardship created is **UNIQUE** and not shared by all properties alike in the neighborhood because

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3. The variance would not adversely impact neighboring property; i.e. public health, safety, convenience, welfare and property value, because

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Applicant's Name (please print) \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Property Owner's Name (please print) \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

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**DO NOT WRITE BELOW**

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Action of the Board:  Approved  
Date \_\_\_\_\_

Denied  
Date \_\_\_\_\_

Approved:

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Denied:

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Effective 5/1/07

Town GIS Pin # \_\_\_\_\_

# South Windsor Zoning Board of Appeals Information Sheet

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## **Powers of the South Windsor Zoning Board of Appeals.**

### **Variances:**

South Windsor's Zoning Regulations, while permitting many varied structures and uses of land, may limit or prohibit other structures and uses or their location. The power of the South Windsor Zoning Board of Appeals to grant variances furnishes flexibility in the application of these regulations so that they do not operate in an arbitrary or confiscatory manner by adversely affecting an individual's property rights. Passage takes four votes out of five.

### **Enforcement Appeals:**

In addition, the Zoning Board of Appeals hears and decides appeals from orders or decisions of the Zoning Enforcement Officer or her assistants, where it is alleged that there is an error in any order, requirement or decision made by the Zoning Enforcement Officer or her assistants. Overturning order or decision of Zoning Enforcement Officer takes four votes out of five.

## **What is a variance?**

A variance is authority granted to a property owner to disregard a particular zoning regulation (regulation must be identified) in building structures on, or otherwise using his property.

Test for granting a variance.

To obtain a variance, three conditions must be met:

1. Adherence to the strict letter of the zoning regulation must be shown to cause unusual hardship unnecessary to the carrying out of the general purposes of the zoning plan.
2. The variance must be shown not to substantially affect the comprehensive zoning plan.
3. The hardship may not be self created, that is, due to the actions of the owner.

A variance cannot be granted to allow a use, which is not otherwise permitted in the municipality. A variance cannot be granted for property in any residential zone to allow a use which is not otherwise permitted in those zones, but is permitted in non-residential zones (i.e. industrial or commercial).

A variance is not personal to the person who applied for and received it. It does not expire when there is a transfer of title to the property. Rather, the variance runs with the land permanently and passes to future owners.



## What is a hardship?

The hardship is the justification for granting the variance. A hardship has two parts.

1. It originates in the zoning ordinance, and
2. Arises directly out of the application of the ordinance to circumstances or conditions beyond the control of the party involved.

The applicant has the burden of proving hardship particularly affecting his land by application of the zoning ordinance.

The applicant must show that because of some peculiar characteristic of his/her property, the strict application of the zoning regulation results in an unusual hardship, as opposed to the general impact, which the regulation has on other properties in the zone.

For example: Topographical conditions on the property involved in the application may be the basis for granting a variance as long as other properties in the area do not have the same problem. Location of a structure on the property may also create the hardship.

*Examples of conditions generally not considered hardships.*

- Hardships that result from the applicant's voluntary act are called self-created. This usually includes the problems caused by someone hired by the property owner. A self-created hardship does not result in a variance.
- Aesthetic reasons are not a hardship.
- Absent a situation amounting to confiscation (i.e. the property being rendered virtually worthless by operation of the zoning regulations), financial loss or the potential of financial advantage to the applicant is not the proper basis for a variance, and does not constitute a hardship.
- Loss of competitive advantage is not sufficient for a variance.

## How do I present my case?

When filing the application:

1. Read and follow all of the directions on the application. If you have questions, please ask for help from the Planning Department.
2. Identify the zoning ordinance from which you require relief
3. Describe your property's unique characteristics that do not allow you to comply with the zoning ordinance above.
4. Send certified letters to the abutting property owners of record.
5. Review the application making sure all required attachments are included.
6. Sign and date the application. Property owner & applicant (if not same) must sign application.
7. Post sign on property 10 days prior to public hearing





At the public hearing:

1. You will be called to come forward to present your case.
2. State what variance you are seeking.
3. Explain what you hope to do with the property.
4. Explain the hardship and how it impedes your efforts.
  - a. Remember to state from which zoning ordinance you are seeking relief.
  - b. The hardship must meet criteria above.

The ZBA chair will entertain comments from the public if there are any others present who:

- Want to speak in favor of your application,
- Want to speak against your application, or
- Want to make any general comments about your application.

Once all visitors are heard in your case: Commission members will be given the opportunity to ask questions of the applicant and any of those who spoke out for or against the application. Once all questions and comments are heard, the hearing will be closed. After the public hearing is closed, you may not present any additional information or evidence to the Commission. The Commission has 65 days to make a decision on the application. After the decision is made on the application, the applicant will be informed of the Board's decisions in writing by certified mail.

### **When can an Appeal be filed?**

An appeal on the Board's decision can be made to the Superior Court as provided for in the Connecticut General Statutes. Check with your Attorney for filing time, limits and procedures. (The SW ZBA currently publishes notices in the Journal Inquirer).

*Note: This document is intended as a general guide only and is not meant, nor should it be relied upon, to provide legal advice. An applicant should seek advice and guidance from an attorney and/or other professionals as to the appropriateness of the information contained herein. South Windsor Zoning Board of Appeals, its members, and the Town of South Windsor are not responsible for errors or inaccuracies contained in this guide.*

Info sheet adopted 12/1/2005

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