

# ZONING BOARD OF APPEALS



## APPLICANTS GUIDE

This guide was compiled by the Somers Zoning Board of Appeals and it reflects statutes, regulations and procedures in effect as of the revision date.

Revised June 2012

**SOMERS, CT**

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# APPLYING FOR A VARIANCE OF THE SOMERS ZONING REGULATIONS

## WHAT IS A VARIANCE?

A variance may be granted to certain provisions of the Somers Zoning Regulations.

The Zoning Regulations are the municipal laws governing the use, location, height and bulk of the land and structures within the Town's districts. The regulations consist of a map showing zoning districts and a list of regulations.

If you believe that the regulations create a hardship on your property, you can request a variance to a specific provision of the regulations.

This guide is intended to explain the process of applying for a variance and when a variance may be considered reasonable by the Town.

## ITEMS OF INTEREST

- The Somers Zoning Board of Appeals (ZBA) consists of five (5) regular members and three (3) alternate members.
- Any member may excuse himself/herself in case of any conflict of interest.
- A minimum of four (4) yes votes are needed to approve any application.
- The ZBA application fee is currently \$205.00 per appeal.
- We recommend obtaining or reviewing a copy of the Somers Zoning Regulations in the Town Clerk's Office, or online.
- The ZBA meets the 2<sup>nd</sup> Tuesday of each month at 7:30pm at the Somers Town Hall for any scheduled hearing. Otherwise the Board will meet at least quarterly for a business meeting.
- Meeting legal notices are published in the Journal Inquirer on the two prior Fridays preceding the hearing.
- A vote on an application may or may not take place the night of the hearing. The ZBA has sixty-five (65) days to make a decision from the date of the hearing.
- Interested parties have fifteen (15) days to appeal a decision after the notice has been published in the Journal Inquirer newspaper, usually the Friday of the following week.
- Anything not specifically permitted is not allowed. In all cases the Somers Zoning Regulations, in effect at the time of the Board's decision, shall take precedence.

### *WHY DO I NEED A VARIANCE?*

- ✓ A desire to do something not covered by the Zoning Regulations
- ✓ To prevent illegal use of land
- ✓ To appeal a cease and desist order issued by the Zoning Enforcement Officer
- ✓ To remedy other violations of land use statutes

### **DEFINING OUR TERMS;**

- **Accessory Building**
  - A secondary building (such as a garage or shed) of a property
- **Applicant**
  - The person who files an application to the Zoning Board of Appeals
- **Coverage**
  - The percentage of a lot occupied by all the buildings or structures located thereon.
- **Plan**
  - A survey drawn by a professional, or your sketch of the property drawn to scale, clearly showing the parcel boundaries, existing improvements and any proposed construction including elevations details.
- **Principle building or use**
  - The main building or use occupying the property, such as a house or commercial building.

➤ **Public Hearing**

- A meeting of the ZBA advertised in advance, at which time the applicant presents his request to the Board and where the public is invited to listen and comment.

➤ **Yard**

- A required open area of each lot between its property boundary and the required building setback lines. There are front, side and rear yards for each lot, except corner lots. For setbacks, see bulk table attachment.

➤ **Zoning Board of Appeals**

- A board consisting of five (5) regular members and three (3) alternates appointed by the Board of Selectman to hear appeals and to grant a variance of the Somers Zoning Regulations as it affects a particular parcel of land.



## WHEN CAN A VARIANCE BE GRANTED?

### ➤ Granting a Variance

- A variance can be granted where such granting will not affect the overall purpose of the Zoning Regulations, and where strict interpretation of the regulations will result in a hardship

### ➤ Purpose of Zoning Regulations

- The Board must find that the granting of the variance can be done without materially impairing the Zoning Regulations as a whole, that the variance is in harmony with the purpose of the regulation and that the strict interpretation of the regulations is unnecessary to carry out the general purpose of the zoning plan.

### ➤ Hardship

- **The ZBA must find that a hardship exists.** A hardship exists when the Zoning Regulations uniquely affect a parcel of land differently from other properties and where use of the property or reasonable use of the land would be impossible without a variance. **Self-imposed or financial hardships cannot, by law, be considered as a reason for granting a variance.**

### ➤ Affirmative Votes Required

- Connecticut courts have held that variances should be granted sparingly in order to protect the integrity of the Zoning Regulations. In particular, State law requires a minimum of four (4) votes of the five (5) person Board in order to grant a variance.

## WHAT DO I NEED TO APPLY?

### ➤ APPLICATION

A completed application must be submitted to the Zoning Board of Appeals. Applications are available in the Town Clerks Office in the Town Hall or online at [www.somersct.gov](http://www.somersct.gov) . The form must contain the signature of the applicant, address and telephone number; please include a convenient time to reach you.

### ➤ DEED

A copy of the deed showing that you own the property or a copy of a contract or lease agreement showing that you have some legal interest in the property.

### ➤ PLAN

A survey drawn by a professional, or your sketched plan clearly drawn to scale, showing existing conditions such as buildings, septic tanks, leach fields, parking areas, driveways, etc., and showing the proposed construction or alterations requiring the variance. Three (3) copies minimum must be submitted. Photographs are helpful to illustrate your application.

### ➤ APPLICATION FEE

A \$205.00 non- refundable fee, which is used to partially defray the cost of legal advertising, is required.

### ➤ APPLICANT

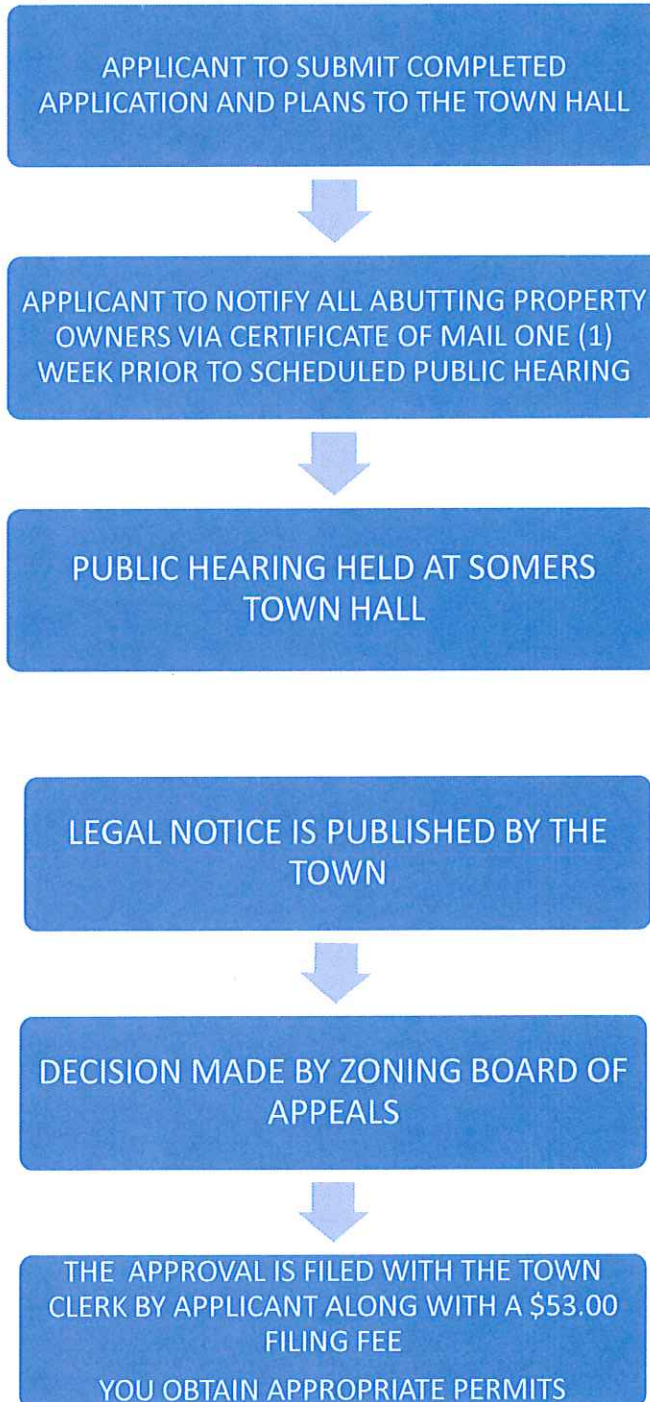
Applicants must notify abutting property owners one (1) week prior to the meeting by certificate of mail.



## WHAT HAPPENS AT THE PUBLIC HEARING?

- **The meeting is called to order and the legal notice is read**
  - The Secretary of the Board will read the legal notice description of your request
- **Open hearing and presentation of your request**
  - You and/or your representative come before the Board to present your request. Bring anything that will help you explain your application: photographs, maps, plans, slides, etc. You should clearly state the explanation of the hardship you are claiming.
- **Questions by the Board**
  - The Board may ask you questions at any time to help them fully understand your request.
- **Comments by the public**
  - Following your presentation, the chairman will ask any interested person if they wish to speak in favor of or in opposition to the application. You are given an opportunity to provide a final comment.
- **Motion to close the hearing**
  - After the information is heard, the Chairman will request a motion to close the hearing. After this point, no further comments or information from the applicant or the public is permitted. You may stay for the discussion and business meeting if desired.
- **Decision**
  - After all public hearings are concluded; the Board will discuss and consider each application. Usually a decision will be made on each request on the same night the public hearing is held; however, the Board does not have to make a decision until 65 days following the date of the hearing.
  
- **Appeal Period**
  - Following the meeting, the decisions of the Board will be posted in the newspaper usually the Friday after the meeting. Once the decisions are published, the public has 15 days to appeal with decision of the Board. After that period, the Legal Notice for Record can be filed in the Land Records.

## VARIANCE APPLICATION PROCESS SUMMARY



## QUESTIONS AND ANSWERS

### 1. HOW LONG DOES THE PROCESS TAKE?

The variance process typically takes two to six weeks. Continuances requested by the applicant or desired by the Board can lengthen the process.

### 2. HOW LONG IS THE VARIANCE VALID?

Once granted, and after the decision is filed in the land records, the variance is permanent and stays with the property.

### 3. CAN VARIANCES BE TRANSFERRED?

Variations are granted to properties, not owners. Therefore, when a property is sold, the rights granted by the variance remain with the property.

### 4. WHO CAN APPLY FOR A VARIANCE?

Anyone who owns or who has legal interest in real property can apply for a variance for that property.

### 5. IF DENIED, CAN I REAPPLY?

The Board does not have to hear a request for the same, or substantially the same, variance for a period of six months from the date of its earlier decision.

### 6. CAN THE BOARD'S DECISION BE APPEALED?

A decision may be appealed to the Superior Court with fifteen (15) days following the publication of the legal notice of the Board's decision.

### 7. HOW DO I APPEAL A ZONING ENFORCEMENT OFFICER'S DECISION?

An appeal from a decision must be in writing and submitted within 30 days of the Zoning Enforcement Officer's determination.

## WHAT HAPPENS AFTER AN APPROVAL?

### ➤ APPEAL PERIOD

Following the meeting, the decisions of the Board will be posted in the newspaper usually the Friday after the meeting. Once the decisions are published, the public has 15 days to appeal with decision of the Board. After that period, the Legal Notice for Record can be filed in the Land Records.

### ➤ FILING THE DECISION

You will be notified when the Legal Notice for Record has been prepared and is ready to be filed in the Land Records. The applicant is responsible for filing the document in the Land Records after paying the \$53.00 filing fee in the Town Clerks Office after the 15 day appeal period has passed.

### ➤ BUILDING PERMIT

After variance approval you must determine if any other approvals are required. Once you have satisfied all these requirements, contact the Land Use Department to obtain the necessary permits.

## WHERE TO GO FOR FURTHER INFORMATION

### ➤ LAND USE OFFICE

Prior to filing an application, it is recommended that you visit the Land Use Office for additional information. Copies of residential plot plans, zoning maps and wetland maps can be found in the Land Use Office. Also, information concerning the Building Code can be discussed with the Building Inspector. Other information regarding utilities, drainage or driveway locations can also be obtained in this office.

### ➤ TOWN CLERK'S OFFICE

Obtain a Zoning Board of Appeals application form, Applicant's Guide and information from the Town Clerks Office. In this office you can obtain a copy of your deed and other information regarding your property



ZONE	Single- Family Residence		Two family	Business	Industrial
	A	A-1	A-1		
Lot Area ( square feet)	40,000	40,000	80,000	40,000	60,000
Contiguous buildable area ( square feet)	40,000	40,000	80,000	40,000	60,000
Lot Frontage (feet)	175	175	300	75	200
Minimum Front Yard (feet)	50	50	50	25	35
<b>Minimum Side Yard (feet)</b>					
Primary Building	25	25	25	10	20
Accessory Building	25	25	25		
Parking Area	10	10	10		
<b>Minimum Rear Yard (feet)</b>					
Primary Building	40	40	40	30	40
Accessory Building	25	25	25		
Parking Area	10	10	1		
<b>Maximum Height (feet)</b>					
Primary Building	35	35	35	35	40
Accessory building	20	20	20		
<b>Maximum Height (stories)</b>					
Primary Building	2 1/2	2 1/2	2 1/2	2	2
Accessory Building	2	2	2		
Maximum Lot Coverage (%)	25%	25%	25%	60%	60%
Minimum Floor Area ( square feet)					
<b>1-Story Structure</b>	1,550	1,200	1,150 per unit		
<b>2-Story Structure</b>					
Ground Floor	1,200	850	1,150 per unit		
Total Floor Area	2,000	1,500			



*[This is a draft notification letter that is to be sent from the applicant to the owners of the land that is adjacent to the subject of the public hearing. For use variances, every landowner within 400 feet is to be notified. The sections in **bold italics** are to be filled in for each application. Letters are to be sent no less than 7 days before the hearing date. Letters are to be addressed to the property owner of record. The applicant must submit a Certificate of Mailing from the U.S. Post Office before or at the public hearing. Sections of this document in square brackets are NOT to be included in the notice letter.]*

***Date of this letter***

Dear Property Owner:

In accordance with article XIX of the Somers Zoning Regulations, this letter is being sent to notify you that a public hearing has been scheduled for the application described below. You have the right to attend the public hearing, and ask questions and make comments about the application; however, you are not required to attend the hearing. The application, along with any other filed documents is available for review in the Land Use Office in the Somers Town Hall.

The hearing concerns the following:  
[As appears on the Application Form]

***Location of subject property***

***Description of proposed variance or ruling***

Applicant's name and address

HEARING DATE AND PLACE:

***Day and Date*** [to be determined by the Zoning Board of Appeals]

7:30 P.M.

Somers Town Hall

600 Main Street

Somers, CT 06071

If you should have any questions concerning this hearing, please contact the Land Use Office at 860-763-8220 or email [mdamato@somersct.gov](mailto:mdamato@somersct.gov)

Very truly yours,

***Applicant's printed name and Signature***