

# Variance Information Sheet – Town of Coventry, CT

## WHAT IS A VARIANCE?

---

A Variance is legal authorization granted by the Zoning Board of Appeals (ZBA) to use property in a manner that is otherwise prohibited in the Zoning Regulations. A Variance excuses a landowner from having to comply with regulations that all other landowners in the same zoning district must follow.

**CGS § 8-6 allows ZBAs to grant variances** from zoning bylaws, ordinances, or regulations with respect to a parcel of land when “owing to conditions especially affecting such parcel but not affecting generally the [zoning] district in which it is situated, a literal enforcement of such bylaws, ordinances or regulations would result in exceptional difficulty or unusual hardship...” The statutes do not define “exceptional difficulty or unusual hardship,” but these terms have been construed in an extensive body of case law.

## VARIANCES – In accordance with State Law, granting of variances should be limited to extraordinary situations:

---

- Variances MUST be in harmony with the general purpose and intent of the zoning regulations.
- Variances MUST consider the public health, safety, convenience, welfare and property values.
- Variances MUST be reserved only for parcels with unusual conditions of “**exceptional difficulty or unusual hardship.**”

## HARDSHIP STATEMENT

---

**All applications to the Zoning Board of Appeals must state a hardship in order to be considered for a Variance.**

## ZONING VARIANCE HARDSHIP CRITERIA

---

A variance requires an applicant to show an “**unusual hardship**” generally defined as ***a peculiar or unique condition of the subject property that is not generally found on other lots in the same Zoning District or the surrounding neighborhood,*** and which **prevents** the landowner from making a **reasonable use** of the property in conformance with the Zoning Regulations as written. Hardship does not relate to the personal needs or wishes of the landowner, but only to the quality of the property itself.

## Variance Information Sheet – Town of Coventry, CT

***Proof of a true hardship is a legal requirement for the Zoning Board of Appeals to issue a Variance.***

### WHAT IS NOT A HARDSHIP

---

- **Personal preferences**, emotions and needs related to circumstances of an applicant and their family
- **Conditions that are self-created** or a result of an action taken by a present or past owner
- **Financial considerations** such as economic benefit or loss to the property owner
- **Potential for financial advantage** or loss of competitive advantage for the property owner.
- The fact an owner might be able to make **more profitable use of their land** if it were not for the Zoning Regulations
- Impact on **tax revenues** for the Town.

### CGS § 8-6

---

- **Financial considerations are NOT a valid reason for issuing a variance;** the possible economic advantage to the landowner is not sufficient. The fact that the proposed use will not be detrimental, and may even be beneficial, to the neighborhood is not sufficient.
- **Self-created hardship is not sufficient grounds for granting a variance;** i.e., the landowner must not have taken any action that caused the hardship to occur. In some cases, the simple fact that a landowner purchased his or her property with knowledge of the zoning restrictions may prevent a valid claim of hardship. **When a condition which results in the hardship is due to one's own voluntary act, the zoning board is without the power to grant a variance.**
- **The hardship must arise from the operation of the regulations on the land, not on the landowner,** and the land must be 'peculiarly disadvantaged' by the regulation for which the variance is sought.
- **Disappointment in the use of property does not constitute exceptional difficulty** or unusual hardship and a variance should not be granted unless it is in harmony with the general purpose and intent of the zoning ordinance.
- **A hardship resulting from the peculiar topography or condition of the land,** or a peculiar 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.

## Variance Information Sheet – Town of Coventry, CT

### **CRITERIA AND FACTS the ZBA must consider when deciding whether to grant a variance:**

---

- Does the applicant have reasonable use of the property without the variance – is the property unusable or unbuildable without the granting of a variance?
- Do extraordinary physical conditions peculiar to and inherent in the specific 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?
- Is the alleged hardship self-created or the result of or caused by action of the owner (present or past)?
- Will adherence 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, Zoning District or surrounding neighborhood?
- Will granting a variance alter the essential character of the locality?
- 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"?

### **TIMETABLE - By State law, the ZBA operates within the following timetable:**

---

- The ZBA has **65 days from the “date of receipt” of an application to open the public hearing**. The date of receipt is the day of the next regularly scheduled meeting of the ZBA after an application is submitted, or 35 days after an application is submitted, whichever is sooner. The ZBA must schedule and open the public hearing within 65 days of the “receipt” of the application.
- The ZBA has **35 days in which to complete the public hearing**.
- **Once the public hearing is closed**, the ZBA has **65 days to make a decision**. The ZBA often decides right after the close of the public hearing but is not obligated to do so.
- The ZBA has the **right to extend** these timeframes by a total of an additional **60 days with consent of the applicant**.

## Variance Information Sheet – Town of Coventry, CT

- **Within 15 days after the meeting**, Staff sends out a **decision letter** from the Land Use Office stating the outcome of the application. A **notice of action** will also be published in a **local newspaper** within 15 days of the decision.
- There is a **15-day period from the date of the publication** of the notice of action wherein **an aggrieved party may appeal the decision to Superior Court**.
- Per CGS, any person or municipal entity aggrieved by a Zoning Board of Appeals decision has the right to appeal to the Superior Court. An "aggrieved" person is defined as someone whose property abuts or is within 100 feet of the affected land, or someone who can demonstrate a specific, personal, and legal interest that has been specially and injuriously affected.