

Section 11

Zoning Board of Appeals Variances Certificate of Location Dealer's & Repairer's License

- 11.1 The Zoning Board of Appeals shall have all the powers and duties prescribed by these Regulations and the Connecticut General Statutes, and may adopt rules and procedures necessary to exercise its authority. The Board shall have the following powers and duties:
(Amended 1/1/2012)
- 11.1.1 To hear and decide appeals where it is alleged that there is an error in any order, requirement or decision by the ZEO.
(Amended 1/1/2012)
- 11.1.2 To determine and vary the application of these 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 generally affecting the district in which it is situated, a literal enforcement of such Regulations would result in exceptional difficulty or unusual hardship so that substantial justice will be done and public safety and welfare secured.
(Amended 1/1/2012)
- 11.2 Variances: Variances shall only be granted where such an action would be in harmony with the purposes of these Regulations as set forth in Section 1 of these Regulations; and where literal enforcement of these Regulations would result in unusual hardship, as defined by the courts of the State of Connecticut, which may be summarized as follows:
(Amended 1/1/2012)
- 11.2.1 The hardship recognized by the law is that of the property, due to its unique shape, topography or other inherent physical conditions;
(Amended 1/1/2012)
- (a) The personal hardship of the owner, such as age or family condition, is not a legal hardship which would support the granting of a variance.
- (b) The hardship must not be merely financial, such as the owner would make more money or lose less money if the variance were granted, as financial hardship is personal and not inherent in the property itself.
- 11.2.2 The hardship must be unique to the property, in the same sense that it is a characteristic which is not exhibited by other properties in the area or in the zone, and which makes it appropriate for special treatment.
(Amended 1/1/2012)
- (a) Merely being too small or too narrow is not a legal hardship unless it restricts the property from being put to a reasonable use permitted in the subject zone.
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- (b) If the surrounding properties are predominately too small and too narrow for current zoning standards, that is not a legal hardship in that it is not unique to the property for where the variance is being requested.

11.2.3 The hardship must not be created by the owner or his/her predecessor in title, such as dividing a parcel to create lots which cannot support the desired use, or creating a topographic condition by excavation, fill or other measures which render the property unusable for its highest use without a variance or by building a structure which, for whatever reasons, violates a current Regulation.

(Amended 1/1/2012)

11.2.4 The burden is on the applicant to demonstrate that the requirements for a variance have been met.

(Amended 1/1/2012)

11.2.5 Variances are to be granted sparingly and only to the minimum extent necessary to allow property to be used for the least intensive use which is permitted in the subject zone.

(Amended 1/1/2012)

11.3 Limitations: In accordance with CGS Section 8-6, the Board is hereby prohibited from approving a variance which has the effect of permitting any use in any zone which is not a permitted use, whether as of right or by Site Plan or by Special Exception, under these Regulations. Additionally, no variance shall be granted with respect to Section 10.20 inclusive to permit an adult entertainment business nor Section 25.7.2 inclusive, to permit encroachment into the tidal wetlands buffer.

(Amended 1/1/2012)

11.4 The ZBA shall hear and decide appeal and requests for variances from the requirements of Section 17: Flood Hazard Zone and shall notify the Commission of pending appeals. The Board is referred to Section 17.10: Variance Procedure – Zoning Board of Appeals for guidance.

(Amended 1/1/2012)

11.5 Certificate of Approval of Location, Dealers' and Repairers' Licenses: The purpose of this Section is to establish the procedures and standards which uses requiring a Certificate of Approval of Location (CAL) from the ZBA shall follow prior to applying for a license to operate from the Commissioner of Motor Vehicles or a Zoning Permit from the Town of Clinton.

(Amended 1/1/2012)

11.5.1 Auto Junk Yard: The uses regulated by this Section shall not be construed to include an auto junkyard. It is the specific intent of this Section to prohibit the establishment of new auto junkyards or the extension of any auto junkyard already operating as a non-conforming use.

11.5.2 General Standards: The ZBA shall review an application before it, to determine if the proposed use and structures will conform to the following general standards in addition to any special standards for particular uses specified:

- (a) That the location, type, character and size of the use and of any building or other structure in connection therewith shall be in harmony with and

conform to the appropriate and orderly development of the Town and the neighborhood and will not hinder or discourage the appropriate development and use of adjacent property or impair the value thereof.

- (b) That the nature and location of the use and of any building or other structure in connection therewith shall be such that there will be adequate access to it for fire protection purposes.
- (c) That the streets serving the proposed use are adequate to carry prospective traffic, that provision is made for entering and leaving the property in such a manner that no undue hazard to traffic or undue traffic congestion is created and that adequate off-street parking and loading facilities are provided.
- (d) That the lot on which the use is to be established is of sufficient size and adequate dimension to permit conduct of the use and provision of buildings, other structures and facilities in such a manner that will not be detrimental to the neighborhood or adjacent property.
- (e) That the property will be suitably landscaped to protect the neighborhood and adjacent property.
- (f) That the site plan and architectural design shall be in conformance with the purpose and intent of any plan of development adopted by the Planning and Zoning Commission for the area in which the use is to be located and that the site plan provides for continuation and appropriate improvement of streets terminating at the lot where the use is to be located.
- (g) That the architectural plan of buildings, other structures and sign, including the exterior building materials, color, elevations, roof line height and bulk, shall be of a character as to harmonize with the neighborhood and to preserve and enhance the appearance and beauty of the community.

11.5.3 Automotive Uses: Automotive uses listed in the Schedule (Section 24) shall conform to the following Specified Standards:

- (a) That provision is made for entering and leaving the lot in such a manner that traffic hazards are minimized.
 - (b) That the outside storage and display of vehicles shall conform to the setback requirements for a building.
 - (c) That no repair work, except of an emergency nature, will be performed out-of-doors; and no more than six (6) motor vehicles awaiting repair shall be stored or parked out-of-doors.
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- (d) That all fuel-filling devices are located at least fifty feet (50') away from any street line or property line.
 - (e) That in Business Districts B-1 and B-4, the location of the use or its proximity to like or other establishments will not be detrimental to the orderly economic growth of a retail shopping area in the District.
 - (f) That in Business District B-1, the use shall be designated and located as a part of a complex of retail stores having a floor area of forty thousand square feet (40,000 sq. ft.) or more, and the use shall have no direct, independent access onto any street separate from the access to such stores.
 - (g) No gasoline station shall be permitted within two hundred feet (200') of any school, house of worship, hospital or place of public assembly, said distance shall be measured in a straight line between the nearest points of each of the lots.
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