

General Information & Instructions for Applicants

Requesting a Zoning Variance from the Middlefield ZBA

Introduction

These instructions have been developed to assist residents of Middlefield, Connecticut when applying for a variance from the Middlefield Zoning Regulations. Please read these instructions fully as you complete the application and collect the required attachments for your application. A checklist is provided to assist in the preparation of your application.

A variance is required for property use that does not conform to the current Middlefield Zoning Regulations. When applying for a variance, you are asking the town to vary the regulations, and allow the use you are requesting for the particular lot.

The town of Middlefield has a Zoning Board of Appeals (ZBA), whose function it is to hear and decide applications for variances. The ZBA is empowered and charged by the Connecticut General Statutes § 8-6 (a):

“... to determine and vary the application of the zoning bylaws, ordinances or 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 affecting generally the district in which it is situated, a literal enforcement of such bylaws, ordinances or regulations would result in exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare secured, provided that the zoning regulations may specify the extent to which uses shall not be permitted by variance in districts in which such uses are not otherwise allowed.”

The demonstration of unusual hardship relating to the lot in question is a requirement of the application for a variance. Connecticut case law includes many decisions that relate to this point, describing proof of hardship as “absolutely necessary as a condition precedent to the granting of a zoning variance.”¹

A variance of the zoning regulations is associated with the property, not the applicant. It is recorded in the land records and is effective in perpetuity unless specifically conditioned to expire. General Statutes § 8-6 (b) states:

“Any variance granted by a zoning board of appeals shall run with the land and shall not be personal in nature to the person who applied for and received the variance. A variance shall not be extinguished solely because of the transfer of title to the property or the invalidity of any condition attached to the variance that would affect the transfer of the property from the person who initially applied for and received the variance.”

The ZBA requires several pieces of documentation to understand the application properly. Failure to supply the required information to the Middlefield ZBA could result in a delay in the processing of the application or denial of the application based on the submission of an incomplete application.

¹ Bloom v. Zoning Board of Appeals, 233 Conn. 198, 207-208 (1995).

Process Overview: Application, Hearing, and Decision

The process begins with the applicant submitting a complete application package (application form and required attachments) to the Middlefield land use office. Completed applications should be sent to:

Middlefield Land Use Office
405 Main St., Suite One
Middlefield, CT 06455

Application packages may also be hand delivered during office hours.

The office phone is 860-349.7123 ext 10

During the preparation of this package, the applicant is encouraged to consult with the Middlefield Zoning Enforcement Officer or with their own retained professionals who may be able to provide assistance, e.g., attorneys, architects, building professionals, etc.

At the next regular meeting of the ZBA, the application will be reviewed by the board for completeness. Regular meetings of the Middlefield Zoning Board of Appeals generally are held on the fourth Tuesday of each month at the Middlefield Community Center, 405 Main Street, Middlefield, CT. Please consult a board calendar in case of meeting cancellations. An updated calendar is maintained at the Town Administration building at 393 Jackson Hill Road, the land use office and also is available at the town website — <http://middlefieldct.org>. At the end of this review, the applicant will be instructed by the board as to what is required and/or additional materials that must be corrected/submitted in time for the public hearing. This review will not discuss the merits of the application. The application is then officially “received” by the board and scheduled for a public hearing at the next regular meeting of the ZBA.

Two weeks before the public hearing, the applicant for a variance application should clearly indicate the affected area on the property. The preferred method for this is to use wood stakes; please give consideration to your own safety and public safety. This allows ZBA members to visit the property to review the site.

By submitting an application for a variance, you are granting permission for members of the ZBA to come onto your property to examine the entire lot, as well as the affected area.

By statute, the ZBA is required to hold a public hearing on all variance applications. At the public hearing, the applicant will have the opportunity to present information about the application, and to answer questions from the members of the ZBA. The applicant, applicant’s agent, or the property owner must be present at the public hearing, and must be prepared to show in full the circumstances claimed to justify the granting of the application. The applicant should also expect the board to raise the issues of “reasonable and prudent” alternatives, possible conditions of approval, and other strategies to minimize the impact of a variance. As required by General Statutes §8-7d, members of the public will also be able to address the board to express their views on the application.

Variance Application—Required information

If necessary, the ZBA may leave the public hearing open until the next meeting. Once the public hearing is closed, the ZBA will discuss the application and make a decision. The discussion and/or decision may be delayed until the following meeting.

During deliberation on the application, the ZBA will make a motion for approval. This motion may contain conditions of approval. In order for the application to be approved, the motion must pass with four votes in favor. Please note that if there are only four members of the board seated at that time, you may elect to have the ZBA delay its vote until the next meeting in an effort to secure five voting members. No decision by the board is final until 15 days after the appearance of the legal notice of decision in a local newspaper.

If the application is approved, the applicant will receive an official notice of approval in the mail. *For the variance to be legally in force, the applicant must then have the variance recorded in the land records by the town clerk.* By state statute, the record owner is responsible for paying the recording fee.

If the application is denied, the applicant should consider the reasons given by the board for denial. It may be that a modified plan will address the issues raised by the board and have a better chance of approval.

In either the case of approval or denial, there is a time limit of 15 days after appearance of the legal notice for any party to appeal the decision to the Superior Court.

See General Statutes § 8-8.

Information Required for a Complete Application

The following information is required by the Middlefield ZBA for processing the application. The ZBA may, at its discretion, waive the requirement for some item on this list. The ZBA may require the submission of additional information based on the circumstances of the lot and neighborhood.

- Completed application form
- Deed (1 copy)
- Assessor's map of the neighborhood showing all lots within 500 feet of the lot in question (1 copy)
- Survey map of lot (3 copies). **This must be an A-2 survey**, showing the signature of the preparer with the name of the signer printed below, and the date the map. This may be an existing survey or as-built survey map, but it should show the property and structures as currently configured. The following items must be indicated on the survey map:
 - a. All property boundaries of the lot and boundary markers (such as concrete monuments, iron pipes, etc.)
 - b. Front yard and all side yard lines
 - c. Footprint (bird's-eye view) of all structures on property, including sheds, decks, and fences.
Note: footprint includes the overhang of eaves
 - d. Paved surfaces
 - e. Well
 - f. Septic and leach fields
 - g. Septic reserve area
 - h. Wetlands and watercourses
 - i. Easements and rights of way
 - j. Below-ground utilities such as electric, sewer, water, etc.
 - k. All proposed structures
 - l. If the property is in one of the HD zones, or below the minimum lot size of the zone, *a lot coverage calculation must be shown*. Lot coverage includes the square footage of the lot and the square footage of the footprint (see note above) of all structures (excluding fences).
- Other plans, as needed, to describe scope and details of intended use, for example, architectural plans, blueprints, etc.

Variance Application—Required information

- Other approvals, as needed, required for this project, for example, wetlands approval, copies of variances already granted for the property.
- Check to cover the application fee and DEP charge

Additionally, § 10.08.05 of the zoning regulations requires applicants before the ZBA to provide notice of the public hearing to all abutting property owners. That regulation provides:

- "Notice of the public hearing shall be mailed by the applicant by certificate of mailing to the owner(s) of record of abutting land, as shown on records of the Middlefield Assessor's Office, no less than fifteen (15) days prior to the day of the hearing, and proof of such mailing shall be presented by the applicant at the public hearing. For purposes of this paragraph, 'abutting land' shall include land which is, in whole or in part, separated from the subject property only by an intervening street."*

Line-by-Line Instructions for Completion of Variance Application

1. The applicant must be identified and must provide contact information requested on the form. The applicant may be the owner or other party actively involved in the project for which a variance is requested.
2. The owner(s) of the property must be identified and must provide contact information requested on the form.
3. The property must be accurately identified. Information about assessor's map, etc. can be obtained at the tax assessor's office.
4. The specific variance requests are itemized here. Refer to each request on a separate line, even if the section of Zoning Regulations is the same. For example, each sideyard variance that applies should be listed on a separate line. Be sure to check if there are other required variances, for example, lot coverage, building height, frontage, etc. The applicant has the responsibility to identify and specify by section and name the regulations sought to be varied for variance applications. *Failure to include all required variances may void the legal notice for the public hearing and cause the application to be denied.*

Make sure that you understand the location of property lines for the lot. For example, your property line is generally not at the edge of the paved street, nor is it a set distance from the centerline of the paved street. *Inaccurate variance distances or amounts may void the legal notice for the public hearing and cause the application to be denied.*

Fees will not be waived for re-application due to omissions and errors on the part of the applicant.

5. Provide a description of the project for which the variance is required.
- 6-8. Connecticut General Statutes §8-6 defines the concept of hardship. Connecticut case law further requires that hardship may not be financial, self-inflicted, or self-created. These three items of the application allow the applicant to define the hardship as related to the property.
9. Please provide information on any existing variances in effect on the property. This information can be obtained in the land records or in records of the building office.
10. The applicant and the owner must sign this application.

TOWN OF MIDDLEFIELD
APPLICATION FOR VARIANCE OF ZONING REGULATIONS

Date: _____ **Approval:** _____ **Fee:** \$260.00

1. Applicant

Name: _____
Phone (day): _____
Phone (eve): _____
Address: _____
Email: _____

Applicant is a/an (circle one): Individual, Partnership, LLC, Corporation, or Other.

If Other, please specify _____

Applicant is the (circle one): Owner, Tenant, Prospective Purchaser, or Agent.

2. Record Owner

Name: _____
Phone (day): _____
Phone (eve): _____
Address: _____

3. Property

Street Address: _____
Assessor's Map No.: _____
Lot No.: _____
Block No.: _____
Zone: _____
Deed Reference Vol. and Page: _____
 Check here if the property is within 500 feet of a neighboring town
A copy of the property deed must be included with application

4. Variance requested, and sections of Middlefield Zoning Regulations affected:

Section	Amount of Variance
_____	_____
_____	_____
_____	_____

5. Brief description of project/proposal: _____

TOWN OF MIDDLEFIELD
APPLICATION FOR VARIANCE OF ZONING REGULATIONS

6. Strict application of the regulations would produce an undue hardship because:

7. The hardship is unique and not shared by others in the neighborhood because:

8. The variance would not change the character of the neighborhood and will not substantially affect the comprehensive zoning plan because:

9. Please list all existing variances for this property, including allowed variance and date of approval. Attach copy(s) of variance(s) recorded in Land Records.

Variance

The owner and the applicant hereby grant the Middlefield Zoning Board of Appeals and/or its agent permission to enter upon the property for which Variance approval is requested for the purpose of inspection and enforcement of all Zoning Regulations of the Town of Middlefield.

10. Signatures

Applicant _____ Date _____

Owner _____ Date _____

Application for Variance of Zoning Regulations – Required Information

ZBA USE

Date Submitted: _____

Checklist for receipt (note any request for waiver):

Application: 1 2 3 4 5
 6 7 8 9 10

- Deed
- Assessor's Map
- Survey Map with required indications (see instructions)
- Other documentation, as determined by ZEO or ZBA
- Fee

Date Received: _____

Date(s) of Public Hearing: _____

Date of Decision: _____

Date of Legal Notice of Action: _____

APPROVED DENIED DATE: _____

Chairman, Middlefield. ZBA

CONDITIONS OF APPROVAL (attach additional sheets as necessary):