

General Information & Instructions for Appealing a Zoning Enforcement Determination to the Middlefield Zoning Board of Appeals

Introduction

These instructions have been developed to assist residents of Middlefield, Connecticut in commencing an appeal of a zoning enforcement determination. Please read these instructions fully as you prepare your appeal.

The town of Middlefield has a Zoning Board of Appeals (ZBA). Pursuant to General Statutes § 8-6 (a) (1), the ZBA is authorized "to hear and decide appeals where it is alleged that there is an error in any order, requirement or decision made by the official charged with the enforcement of this chapter or any bylaw, ordinance or regulation" of the town of Middlefield. Under Connecticut law, "[a]n appeal may be taken to the ZBA by any person aggrieved or by any officer, department, board or bureau of any municipality aggrieved . . ." General Statutes § 8-7. In order for the appeal to be heard by the ZBA, it *must be filed within 30 days* of notice of such order. *Id.*

In hearing an appeal of a zoning enforcement determination, the ZBA reviews the matter *de novo*, or from the beginning, and accords no deference to the determination of the zoning enforcement officer. See, e.g., Caserta v. Zoning Board of Appeals, 226 Conn. 80, 88-89, 626 A.2d 744 (1993). Rather, the ZBA is charged with reaching an independent determination as to whether enforcement action is warranted in a given case. It may be helpful to think of the ZBA as a five-person enforcement body. In carrying out its statutory duty, the ZBA "may reverse or affirm wholly or partly or may modify any order, requirement or decision appealed from and shall make such order, requirement or decision as in its opinion should be made in the premises and shall have all the powers of the officer from whom the appeal has been taken but only in accordance with the provisions of this section." General Statutes § 8-7. The concurring vote of four members of the ZBA is necessary to reverse any zoning enforcement determination. *Id.*

Process Overview: Appeal, Hearing, and Decision

General Statutes § 8-7 requires an appellant to provide the ZBA "a notice of appeal specifying the grounds thereof." For your convenience, we have prepared an appeal form for that purpose. Should you desire to provide additional documentation or a more detailed statement of the grounds for your appeal, you are welcome to attach such materials to the form.

The process begins with the appellant submitting an appeal package (appeal form and required attachments) to the Middlefield land use office, which is located on the second floor of the Middlefield Community Center. Completed appeals should be sent to:

Middlefield Land Use Office
405 Main Street, Suite One
Middlefield, CT 06455

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Appeal packages may also be hand delivered during office hours. The office phone is 860.349.7123. The ZBA requires several pieces of documentation to properly understand the appeal. Failure to supply the required information could result in a delay in the processing of the appeal or denial thereof based on the submission of an incomplete appeal package.

During the preparation of this package, the appellant is welcome to consult with its own retained professionals who may be able to provide assistance, such as attorneys, architects or building professionals. At the next regular meeting of the ZBA, the appeal will be reviewed by the board for completeness. Regular meetings of the Middlefield ZBA 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 appellant will be instructed by the ZBA as to what further is required, including additional materials that must be corrected/submitted in time for the public hearing. This review will not discuss the merits of the appeal. The appeal then is officially “received” by the ZBA and scheduled for a public hearing at its next regular meeting.

If the appellant is also the owner of the property in question, the appellant should clearly indicate on the property the affected area at least two weeks before the public hearing. The preferred method for this is to use wood stakes or landscape spray-paint where possible; please give consideration to safety concerns. The aim is to clearly demarcate the area at issue to enable ZBA members to review the property prior to the public hearing. By submitting an appeal of a zoning enforcement determination, 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 appeals of zoning enforcement determinations. For more detail on the requirements thereof, please see General Statutes § 8-7d. At the public hearing, the appellant will have the opportunity to present information about the appeal and to answer questions from the members of the ZBA. The appellant or the appellant's agent must be present at the public hearing, and must be prepared to articulate and substantiate the grounds for appeal. Other interested parties and members of the general public also will be provided the opportunity to express their views on the appeal.

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 appeal and ultimately reach a decision. At that time, a motion will be made to affirm, reverse or modify the determination that is the subject of the appeal. *To pass, the motion must garner 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 publication of legal notice. Aggrieved parties may appeal the decision of the ZBA to the Superior Court, but must do so within 15 days after publication of legal notice. See General Statutes § 8-8.

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Line-by-Line Instructions for Completion of Form to File an Appeal

1. The appellant must be identified and must provide contact information requested on the form. The appellant may be the property owner, its agent or another party aggrieved by the zoning enforcement determination.
2. The owner(s) of the property and their contact information must be provided.
3. The property must be accurately identified. Information about assessor's map, etc. can be obtained at the tax assessor's office.
4. The precise determination of the zoning enforcement officer that is being appealed must be identified, as well as the date such action was taken.
5. If any of the Middlefield Zoning Regulations are involved in this appeal, please state the specific section of the regulations at issue. Please also provide a brief statement or explanation as to how it pertains. For example, if a regulation regarding fencing was involved, you would identify the regulation by number in the left column, and on the right state "location of fence." Because many of our regulations contain multiple facets, the aim here is to pinpoint what aspect of the regulation is in dispute.
6. The grounds for the appeal must be stated. This is where you inform the ZBA why the zoning enforcement determination is erroneous. While you will have the opportunity to present the basis for your appeal during the public hearing, this is where you can introduce your contention to the ZBA and the reasons in support thereof.
7. Please provide information on any existing variances on the property in question. This information can be obtained by reviewing either the land records in the town administration building or the records of the land use office in the Middlefield Community Center.
8. The appellant must sign the appeal.
9. The appellant must submit the following in the appeal packet:
 - Completed appeal form (original plus 2 copies)
 - Order, requirement or decision of zoning enforcement officer (3 copies)
 - Deed to property in question (3 copies)
 - Assessor's map of the neighborhood showing all lots within 500 feet of the property and/or a survey map of property as necessary (3 copies)
 - *If a survey is submitted, it should note the location of the following items:*
 - 1) All property boundaries of the lot and boundary markers (such as concrete monuments, iron pipes etc.)
 - 2) Front yard and all side yard lines
 - 3) Footprint (bird's-eye view) of all structures on property, including

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- sheds, decks, and fences
- 4) Paved surfaces
- 5) Well
- 6) Septic and leach fields
- 7) Septic reserve area
- 8) Wetlands and watercourses
- 9) Easements and rights of way

10. Lastly, the appellant must include a check to cover all applicable fees

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Zoning Board of Appeals**

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1. Appellant

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

Appellant is a/an (circle one): Individual, Partnership, LLC, Corporation, or Other
If Other, please specify _____

Appellant is the (circle one): Owner, Neighbor, Agent, or Other
If Other, please specify _____

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: _____
Deed Reference Page: _____

Check here if the property is within 500 feet of a neighboring town

- A copy of the property deed must be included with appeal -

4. Briefly describe the order, requirement or decision of the Zoning Enforcement Officer that is being appealed and its date of issuance:

Determination

Date Issued

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5. List all provisions of the Middlefield Zoning Regulations implicated in this appeal:

6. Description of the grounds for appeal:

7. If any variances have been granted for the property in question, please list, along with the dates of approval. Attach copy(s) of variance(s) recorded in Land Records.

Variance	Date
_____	_____
_____	_____
_____	_____

If the Appellant is the owner of the property in question, the Appellant hereby grants the Middlefield Zoning Board of Appeals and/or its agent permission to enter the property for the purpose of inspection and adjudication of this appeal.

Appellant _____ Date _____