

ARTICLE VIII.

ZONING BOARD OF APPEALS

Section 800. Powers and Duties

The Zoning Board of Appeals shall have the following powers and duties:

800.1 Administrative review. To hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made by the Zoning Enforcement Officer in the enforcement of these Regulations.

800.2 Variances; Conditions covering applications; Procedures:

To authorize upon appeal in specific cases such variance from the terms of these Regulations where, owing to special conditions, a literal enforcement of the provisions of these Regulations would result in unnecessary hardship. (Financial detriment shall not be considered an unnecessary hardship). A variance from the terms of these Regulations shall not be granted by the Zoning Board of Appeals unless and until:

800.2.1 A written application shall be submitted with a fee payable to the Treasurer, Town of Killingly. The application is submitted on a form prescribed by the Commission demonstrating (Amend. of 1-11-88, effective 8/16/89)

- a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
- b. That literal interpretation of the provisions of these Regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these Regulations.
- c. That the special conditions and circumstances do not result from the actions of the applicant. Purchase or lease of property shall not constitute such an "action" in this instance.
- d. That granting the variance requested will not confer upon the applicant any special privilege that is denied by these Regulations to other lands, structures or buildings in the same district.

No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

- 800.2.2 Notice of public hearing shall be given as prescribed in Section 8-7, Chapter 124 of the 1958 Revision of the Connecticut Statutes as amended.

The applicant shall erect or cause to have erected a sign on the premises affected by the proposed variance application at least ten (10) days prior to the public hearing on such variance.

Signs shall be provided by the Town for each variance application. Said sign shall be securely fastened or staked, and be clearly visible from the street closest to the affected property and be maintained as such until the day following the public hearing.

A report from the Zoning Enforcement Officer attesting to whether the above described sign was erected and maintained as required shall be made part of the record at the public hearing. Failure of an applicant to comply with this requirement may be grounds for automatic denial of the variance, with consideration being given to cases where weather conditions or acts of vandalism have destroyed a properly posted sign.

This amendment would be applicable to both the Town of Killingly and Borough of Danielson. (Eff. 3/1/90)

- 800.2.3 The public hearing shall be held. Any party may appear in person, or by agent or by attorney.

- 800.2.4 The Board of Appeals shall make findings whether or not the requirements of Section 800.2.1 have been met by the applicant for a variance.

- 800..2.5 The Board of Appeals shall further make a finding whether or not the reasons set forth in the application justify the granting of the variance, and assure that the variance, if granted, is the minimum variance that will make possible the reasonable use of the land, building or structure. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with these Regulations. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these Regulations and punishable under Section 630 of these Regulations.

800.3 Board has powers of zoning enforcement officer on appeals; reversing decision of administrative official.

In exercising the above-mentioned powers the Zoning Board of Appeals may, so long as such action is in conformity with the terms of these Regulations, reverse or affirm, wholly, or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Zoning Enforcement Officer from whom the appeal is taken. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Enforcement Officer to decide in favor of the application of any matter upon which it is required to pass under these Regulations, or to effect any variation in the application of these Regulations.

800.3.1 An appeal may be taken in accordance with the Connecticut General Statutes to the zoning board of appeals by any person aggrieved or by any officer, department, board or bureau of any municipality aggrieved and shall be taken within fifteen (15) days, by filing with the zoning commission or the officer from whom the appeal has been taken and with said board a notice of appeal specifying the grounds thereof. Such appeal period shall commence for an aggrieved person at the earliest of the following: (1) upon receipt of the order, requirement or decision from which such person may appeal, (2) upon the publication of a notice in accordance with Connecticut General Statutes subsection (f) of section 8-3, as amended by Public Act 03-144, or (3) upon actual or constructive notice of such order, requirement or decision. (Effective 12/24/03)

800.4 Other.

The board shall have such other powers and duties as provided in the Connecticut General Statutes as amended.