

POMFRET ZONING BOARD OF APPEALS
Zoning Variance and Zoning Appeal Application

Frequently Asked Questions

What is a variance? And how do I know if I need one?

A Zoning Variance allows you to build on or use your property in a way which is not allowed by the Pomfret Zoning Regulation. You would find out you need a variance by a preliminary discussion of your project or proposed use with the Zoning Enforcement Officer (ZEO), the building inspector or the Zoning Commission. Or, you might determine your need for a variance on your own, by getting and reading the Pomfret Zoning Regulations (available at Pomfret Town Hall).

What is an “appeal”?

The purpose of an appeal is to overturn a decision of the ZEO which you believe was improperly rendered. For instance, if the ZEO denies your application on the grounds that your lot is too small, but you feel that he has misread your deed, you might appeal his decision.

Do I have to be turned down by the Zoning Board before I apply for a variance?

No, if your project will be in violation of any part of the zoning regulations, and you cannot redesign it so that it complies, then you should discuss your circumstances with the ZEO and begin the application process for a variance as soon as possible.

Does every applicant for a variance get one?

No, by state law, the issuance of a variance is limited by the following strict criteria:

A variance cannot undermine the overall purpose and intent of the Zoning Regulation

A variance cannot be issued if it would endanger public health and safety.

A variance must be supported by a claim of “unusual hardship” which would be caused by a strict enforcement of the regulation.

What is meant by “unusual hardship”?

This is a key issue, as the ZBA is only allowed to issue a variance if the applicant can demonstrate that an “unusual hardship” will result from strict enforcement of the regulation. The Connecticut courts have clearly stated that a valid hardship cannot be either self-imposed or solely financial. The hardship must apply to the property and not to a person, as a variance stays with the property and remains in effect when there is a change in ownership. A valid hardship must result from conditions especially affecting a specific parcel of land, but not affecting, generally, the district in which it is situated.

There is a huge body of legal language and case law regarding this issue. Additional information can be found at the Pomfret Town Hall (books may be read, but cannot be removed), on the internet, or from a land use attorney.

Is my property “grandfathered”?

Any lot, structure or use which was in existence at the time of the adoption of the Pomfret Zoning Regulation which is not in conformance with the regulation is called “an existing non-conformity.” All existing non-conformities are legal and can continue as they were at the time zoning was adopted. Especially in the case of non-residential uses, such as commercial or home industry uses, it is important to establish a record that the use preceded the adoption of the regulation. This is also true when the regulations are changed.

But what if want to add on to my house and it is an “existing non-conformity”...am I still grandfathered?

No, what we generally think of as “grandfathering” doesn’t apply to proposed construction or changes of use. For example, if you are adding to your house and it is an existing non-conforming structure because it sits in the front yard setback, construction which is proposed within that setback area may or may not be allowed by the zoning regulation. You should consult with the ZEO about the specifics of your proposed construction.

Is it Ok to discuss my application with individual members of the Zoning Board of Appeals?

Once you have submitted an application to the ZBA, it is not advisable to discuss the merits of your case with any individual member of the Board of Appeals. Such a discussion could compromise your application. Questions which you may have should be directed to the ZEO or to the whole board at the time of the Public Hearing on your application.