ARTICLE X.

Zoning Board of Appeals

Section 1000 Zoning Board of Appeals - Authority

The Zoning Board of Appeals hereinafter called the Board, shall have the following powers as set forth in Chapter 124, Section 8-6 of the Connecticut General Statutes, 1958 Revision, as amended.

A. 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 by-law, ordinance or regulation adopted under the provisions of this chapter. Such appeal shall be taken within thirty (30) days of the action of said official. *(Amended 02/10/86)*

B. Deleted *(Amended 03/28/18)*

C. To determine and vary the application of the zoning, by-laws, 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 by-laws, 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.

The regulations may be varied regarding the following:

1) Lot size and area requirements.

2) Lot coverage limitations.

3) Setback requirements.

4) Height limitations.

5) Parking requirements.

6) Loading requirements.

7) Sign area and location limitations.

8) Screening requirements.

9) Accessory use limitations.

However, no building or use of land shall be permitted, converted, enlarged, or reconstructed for any purpose other than a use which is permitted in the district in which it is located.

Section 1010 <u>Rules of Procedure. Meetings. and Hearings</u>

A. The Board shall adopt such rules, regulations and procedures as may be deemed necessary to carry into effect the provisions of these regulations.

B. Public Hearings Conducted by Zoning Board of Appeals.

1) Notice of public hearings on Variances, and Appeals. *(Amended 03/28/18)*

(a) The Board shall hold a public hearing on all applications for Variances and Appeals. The Board shall conduct the proceedings in conformance with Chapter 124, Section 8-7 and 8-7a of the Connecticut General Statutes, 1958 revision, as amended. Notice of the time, place and purpose of such hearings shall be published in a newspaper having substantial circulation within the City at least twice at intervals of not less than two days, the first not more than 15 days nor less than 10 days and the last not less than two days before the hearing by the Zoning Board of Appeals Administration Office. *(Amended 03/28/18)*

(b) The Board shall notify the clerk of the adjoining municipality of the pendancy of any application or request concerning any project on any site in which: (1) Any portion of the property affected by a decision of the Board is within 500 feet of the adjoining municipality; (2) a significant portion of the traffic to the completed project will use streets within the adjoining municipality to enter or exit the site; (3) a significant portion of the sewer or water drainage from the project on the site will flow through and significantly impact the drainage or sewer system within the adjoining municipality; or (4) water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality. Such notice shall be made by registered mail and shall be mailed within seven (7) days of the date of receipt of the application or site plan and no hearing shall be held on the application or site plan until after the adjoining municipality has received such notice. A representative from the adjoining municipality may appear and be heard at any hearing on any such application or site plan. (P.A. 87-307) *(Amended 11/27/87)*

(c) The petitioner shall erect, or cause to have erected, a sign on the premises affected by the proposed Variance or Appeal at least 15 days prior to the public hearing on such Variance or Appeal. Said sign shall be provided by the Z0 upon request of the petitioner. Said sign shall be installed by the petitioner, securely fastened or staked, be clearly visible from the street closest to the affected property, and be maintained as such until 15 days following the public notice of the ZBA action. *(Amended 03/28/18)*

A report from the ZO 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 a petitioner to comply with this requirement may be grounds for automatic denial of the Variance or Appeal with consideration being given to cases where weather conditions or acts of vandalism have destroyed a properly posted sign. (Section 1010B(l) *(Amended 06/04/85) (Amended 03/28/18)*

(d) The date of receipt of an application in the day of the Zoning Board of Appeal's next regularly scheduled meeting or thirty-five (35) days after the application is submitted, which ever is sooner. *(Amended 03/28/18)*

Commencement of the public hearing must be within sixty-five (65) days of the date of receipt; the public hearing must be completed within thirty-five (35) days of commencement; the Board must render a decision to reject, modify and approve or approve the application within sixty-five (65) days of the completion of the public hearing. *(Amended 03/28/18)*

An applicant can consent to extend the time frames for any of the above steps, but the total of all extensions together cannot exceed sixty-five (65) days. *(Amended 12/04/03)*

Section 1020 <u>Decision of Board</u> *(Amended 08/01/10)*

A. In granting any Variance, the Board may prescribe any conditions applying thereto that it may deem necessary or desirable.

B. Decisions of the Board shall be made in accordance with the purpose and spirit of these regulations.

C. No Variance shall be granted on any allegation of hardship resulting from an act of the applicant subsequent to the adoption of this regulation, whether in violation of the provisions hereof or not. Before granting a variance on the basis of unusual difficulty or unreasonable hardship, there must be a finding by the Zoning Board of Appeals that all of the following conditions exist: *(Amended 03/28/18)*

1) That if the owner complied with the provisions of these regulations, he would not be able to make any reasonable use of his property.

2) That the difficulties or hardship are peculiar to the property in question, in contrast with those of other properties in the same district.

3) That the hardship was not the result of the applicant's own action.

4) That the hardship is not merely financial or pecuniary.

D. Variance

Where, by reason of exceptional narrowness, shallowness, shape, topographical or unusual condition of a specific property, and not common to the surrounding area as a whole, and where the strict application of the requirements or limitations of any district would result in peculiar and undue hardship upon the use of the property, as contrasted with merely granting an advantage or convenience, the regulations may be varied regarding the following:

1) Lot size and area requirements.

2) Lot coverage limitations.

3) Setback requirements.

4) Height limitations.

5) Parking requirements.

6) Loading requirements.

7) Sign area and location limitations.

8) Screening requirements.

9) Accessory use limitations.

However, no building or use of land shall be permitted, converted, enlarged, or reconstructed for any purpose other than a use which is permitted in the district in which it is located.

E. Appeals

Upon appeal, and subject to appropriate conditions and safeguards, the Board may affirm, in whole or in part, a decision or interpretation made by the Zoning Officer. *(Amended 06/04/85)*

F. No variance shall be effective until a copy thereof, certified by the Zoning Enforcement Officer, is recorded in the land records. The City Clerk shall index the same in the grantor's index under the name of the then record owner and the record owner shall pay for such recording. *(Amended 02/10/86)*

G. Whenever a zoning board of appeals grants or denies any variance in the zoning regulations applicable to any property or sustains or reverses wholly or partly any order, requirement or decision appealed from, it shall state upon its records the reason for its decision and the zoning bylaw, ordinance or regulation which is varied in its application or to which an exception is granted and, when a variance is granted, describe specifically the exceptional difficulty or unusual hardship on which its decision is based. *(Amended 10/18/01)*