

Town of Thomaston

**ZONING BOARD OF
APPEALS
Application Packet**



ZONING BOARD OF APPEALS
GUIDELINES AND PROCEDURES
FOR APPLICANTS

The following guidelines have been adopted by the Thomaston Zoning Board of Appeals in order to assist applicants in applying for a Certificate of Use, Certificate of Variance, a ruling and/or interpretation or any other decision that the Board may make pursuant to the powers authorized by the Connecticut General Statutes.

Applications requesting variances to the Zoning Regulations are often submitted to the Zoning Board of Appeals and many times the applicants do not quite understand exactly why a variance is required and what the granting of a variance means to the Town of Thomaston. A variance is required when an applicant is proposing something on their property that is not permitted by the Zoning Regulations. In effect, you are requesting that the rules be broken for you based upon your unique situation as it relates to your property.

All applicants should follow the guidelines in the order as listed below:

1. Visit the Building and Land Use Office, Thomaston Town Hall, Third Level, 158 Main Street. An office appointment can be arranged by calling (860) 283-8411 Monday to Wednesday 8:00 am to 4:00 pm, Thursday 8:30 am to 6:00 pm, and Fridays 8:30 am to 12:00 pm.
2. The Land Use Officer will explain the application process in detail, respond to any comments or questions regarding the application form, and inform you as to the documentation required to complete the process.
3. The Land Use Officer will inform you as to the date and time of the next regularly scheduled meeting of the Zoning Board of Appeals and the deadline date for submitting the completed application. The Zoning Board of Appeals meets in Meeting Room #1, Fourth Level, Thomaston Town Hall, 158 Main St. the third Tuesday of each month, unless otherwise noted. All meeting dates, meeting minutes, and agendas are posted in the Office of the Town Clerk and are available for review on the Town of Thomaston website www.thomastonct.org
4. In order to post the proper legal notice, the application form and other documentation must be complete. Staff to the Zoning Board of Appeals must receive all applications a minimum of twenty (20) days prior to the next regularly scheduled meeting. This requirement ensures that the required legal notices can be properly prepared, worded, and published in the newspaper in a timely manner as required by the Connecticut General Statutes.
5. A checklist attached to the application must be completed and submitted as part of the application.

The following items must be submitted with your application:

- Cash or a check for the required fee made payable to the Town of Thomaston.
- A legal description of the property obtained from the Land Records in the Thomaston Town Clerk's Office which includes the date of transaction and a complete copy of the deed. You can visit the Assessor's Office and look at your property card to obtain the volume and page number of your deed in the Land Records.

- A map/plot plan of the property detailing the location and design of all existing and proposed structures on the property. A plot plan is a bird's eye view of a property showing how a building is situated on a property. A plot plan typically shows setbacks of how far existing buildings or structures are located from the rear, side, and front yard property lines. The distances from these structures to property lines and the percentage of lot/ground coverage and floor area coverage shall be shown on the plot plan. A plot plan typically shows any easements, rights of way or drainage public or private that exist on a property. You may draw the plot plan yourself, but it must be clean, neatly done, and as accurate as possible. In certain instances, the Board may require an A- 2 survey by a Land Surveyor licensed in the State of CT in order to reach a decision.
 - Architectural drawings of any proposed additions(s), showing the interior floor plan, dimensions, front, side, and rear views. Architectural drawings must include doors, windows, and any other permanent structures. Existing ground elevations must also be shown.
 - A signed copy of the Notice to All Zoning Board of Appeal Applicants must be submitted with the Application for a variance.
 - The applicant may submit photographs with the application or at the Public Hearing. All submitted photographs become part of the record and will remain with the application file in the Building and Land Use Office.
6. Your application form and other documentation must be submitted to the Land Use Office for final review. This will help insure the completeness of the application. The Thomaston Land Use Officer will provide all necessary forms and applications. The Land Use Officer can be of assistance in reviewing your plans; however, the officer cannot be responsible for the design of your plans or indicate the possible outcome of the Zoning Board of Appeals decision and/or any future appeal to the Superior Court.
 7. As soon as the completed application form and related documentation has been received, the process will begin. You will be notified as to the date, time, and place of the public hearing via first class mail. All affected property owners, including yourself, are usually notified within ten (10) to fourteen (14) days prior to the public hearing.
 8. Once the application is received, the required legal notice posted in the newspaper, and adjoining property owners are notified, **the applicant must attend the public hearing on the application.**
 9. **The applicant and or his agent must attend the public hearing and must be prepared to present the application to the Zoning Board of Appeals on the night of the public hearing.** The following is a typical meeting scenario that may occur at a regular meeting of the Thomaston Zoning Board of Appeals:
 - The Chairman or presiding Officer of the Zoning Board of Appeals calls the meeting to order.
 - The Chairman announces the application on the public hearing agenda and then requests the Secretary of the Zoning Board of Appeals to read aloud the legal notice that was published twice in the newspaper.

- The Board will then ask if anyone is in the room to present the Variance Application. **Please be aware that the Board has already received a copy of your application along with a staff memo reviewing the application. It is highly recommended that the applicant retain a copy of the submitted application and documents for their use when presenting the application to the Board.**
- The applicant must either sit or stand at the meeting table and explain to the Board exactly what type of variance is being requested e.g. a front, rear, or side yard property setback that is different than what is permitted by the Zoning Regulations of the Town of Thomaston.
- The applicant and or his agent must be prepared to explain to the Board what hardship or unusual characteristics of their property warrant a variance from the Zoning Regulations, e.g. the unusual or unique characteristics of your property as compared to other properties in the same zoning district that makes it difficult for you to use your particular property in compliance with the Zoning Regulations of the Town of Thomaston.
- Financial difficulties or gains, health problems or any self-created hardships do not justify the receipt of a variance from the Zoning Board of Appeals.
- The Board will ask the applicant and or his agent questions as to what other options permitted by the Zoning Regulations were explored by the applicant before an application for a variance was submitted to the Zoning Board of Appeals.

10. The Board must consider the following facts when reviewing a request for a variance. The Board is not being adversarial when it asks questions of the applicant or listens to public comment on an application. The Board has a responsibility pursuant to the Connecticut General Statutes to consider the following:

- Does the applicant have reasonable use of their property without the variance?
- Are there extraordinary or unique physical conditions e.g. slope, wetlands, peculiar and unique to the property in question that amount to more than an inconvenience to the property owner and have these unique characteristics arisen from the property itself rather than a situation that is personal to the current property owner e.g. a growing family requires an addition to the existing home on a small lot and the addition will be located less than the permitted setback from the property lines as prescribed by the Zoning Regulations of the Town of Thomaston.
- Would the strict application of the Zoning Regulations deprive the applicant of substantially the same rights enjoyed by owners of other lots in the zoning district subject to the same zoning regulation?
- Will the granting of the variance be in harmony with the Plan of Conservation and Development of the Town of Thomaston?
- Will the granting of the variance be in character with the surrounding neighborhood?

11. After the Board has heard from the applicant and the public and asked questions, the Board has the following options:
 - The Board can close the hearing and render a decision that night.
 - The Board can continue the hearing for thirty five (35) days in order to permit the applicant to provide more information for the next public hearing. Once the public hearing is closed, no new information can be submitted by the applicant or received by the Board from any parties.
 - The Board can close the hearing and table action on the application because the Board has sixty five (65) days from the date of the close of the public hearing to render a decision on the application.
 - The Board may continue the public hearing and schedule a site walk to visit the property, which is the subject of the variance application. A site walk is not a meeting at which testimony will be taken by the Board members rather it is an opportunity for the Board members to see the property themselves prior to rendering a decision on an pending application.

12. If the Board makes a decision on the application, staff will send a letter of the Board's decision to the applicant and publish a legal notice in the newspaper within fifteen (15) days from the date of the decision of the Board. If the Board approves the application it may take up to two (2) weeks after the decision for staff to have the Certificate of Variance ready for the applicant to file on the Land Records of the Town of Thomaston as the Certificate of Variance must be signed by a Officer of the Board before it can be filed on the Land Records.

Hardship

A variance constitutes permission to act in a manner that is otherwise prohibited under the Zoning Regulations of the Town. Therefore, an applicant must show that, because of some unusual characteristic of the property, the strict application of the Zoning Regulations produces an “exceptional difficulty or unusual hardship.”

A hardship is an unusual feature of a particular piece of property that prevents the landowner from making a reasonable use of the property in conformance with the existing zoning regulations. A hardship has nothing to do with the personal circumstances of the landowner. The fact that the landowner might be able to make a more profitable use of the land if it were not for the zoning regulations does not equate to hardship.

When the Zoning Board of Appeals (ZBA) grants a variance, it must by state statute act in harmony with the general purpose and intent of the regulations and must give due consideration to conserving the public health, safety, convenience, welfare, and property values. In granting a variance, the ZBA acts solely with respect to the parcel of land having unusual conditions, not generally encountered within the zoning district that would make development in full accordance with the regulations extremely difficult. In legal terms, the condition must be such that a literal enforcement of the zoning regulations would result in exceptional difficulty or unusual hardship so that, in granting the variance, substantial justice will be done and the public welfare and safety secured.

Financial considerations are rarely a valid reason for issuing a variance. Possible economic advantage to the landowner is not sufficient. In addition, the fact that the proposed use will not be detrimental, and may even be beneficial, to the neighborhood is not sufficient. The hardship must arise from the application of the regulations to the land and not to the landowner, and the land must be peculiarly disadvantaged by the regulation for which a variance is sought.



Town of Thomaston
Zoning Board of Appeals
158 Main Street
Thomaston, CT 06787
Telephone: 860-283-8411
Fax: 860-283-2893

Application # _____

Date: _____

Fee: _____

APPLICATION TO THE ZONING BOARD OF APPEALS

Location of property for variance: _____

Lot area _____ acres. Zoning district: GC __ M1 __ M2 __ RA80A __ RA80 __ RA15 __

Is the property within 500 feet of an abutting Town? Yes _____ No _____

If so, which towns? __ Harwinton __ Litchfield __ Terryville __ Waterbury __ Watertown

Applicant Name _____ Address _____

Home Phone # _____ Other Phone # _____

Owner (s) Name _____ Address _____

Home Phone # _____ Other Phone # _____

I/We; hereby apply for the following (check one):

_____ a Variance from the Zoning Regulations

_____ a Certificate of Non-Conforming Use

_____ a Motor Vehicle Certificate Approval of Location

For the purpose of _____

Specify all the variances requested

Applicable Zoning Regulation

Specify the nature of the Hardship: _____

Has any previous appeal been filed in connection with this property? Yes _____ No _____

If so, when and for what purpose? _____

Note: Please use the attached checklist to verify the application is complete and all the required paperwork is submitted with it.

I; We; hereby depose and say that all of the above statements and the statements contained in any papers submitted herewith are true to the best of my knowledge and belief.

I; We; as the applicant and/or owner hereby consent to necessary and proper access to the Above mentioned property by the Board and its designated agents, at reasonable times to investigate the site conditions and to monitor implementation measures.

Signature of all owners

Date

Please Note: State law requires that the hearing on your application must commence within sixty five (65) days after receipt of the application.

If the application is submitted by a Limited Liability Corporation (LLC) or a Limited Liability Partnership (LLP) or if the owner of the property is an LLC or LLP the applicant must provide written documentation as to who are the members of the LLC or LLP.

The applicant must provide written permission from the members of the LLC or LLP permitting the filing of the Variance Application. This permission may be in the form of a written corporate resolution signed and dated by all members of the LLC or LLP or other signed and dated authorization from the owners of the property.

If it is member-managed LLC or LLP, all members of the LLC or LLP must sign a written document granting permission for the application to be filed.

APPLICATION CHECKLIST FOR ZONING BOARD OF APPEALS

**This checklist must be submitted with the completed application
(Please check as each item is completed)**

- Check/cash for the required fee made payable to the Town of Thomaston.
- Legal description of the property. The legal description can be obtained from the Town Clerk's Office.
- Map of the property showing all structures with complete dimensions and setbacks from the front, rear and side yard property lines. A carefully drawn plot plan by the applicant should suffice. The board does reserve the right to require an A-2 survey of the property.
- Show locations of septic, well, sewer line, and inland wetlands. If the property has a septic system or a well, evidence of written approval from the Torrington Area Health District is required. If the property is serviced by public sewer, evidence of written approval from the Superintendent of the Water Pollution Control Authority may be required depending upon the scope of your application. If the property has inland wetlands and watercourses, then an application and approval may be required from the Inland Wetlands and Watercourses Commission (IWWC) or the Wetland Enforcement Officer (WEO). Evidence of the written approval from the IWWC or the WEO must be submitted with your application.
- If an A-2 survey is required, the survey must be prepared by Licensed Land Surveyor in the State of Connecticut. The survey must bear the seal and signature of the surveyor.
- Architectural drawings of any proposed addition(s) showing the interior floor plan the dimensions, front, side and rear views. Existing ground elevations must also be shown. Architectural drawings must include doors, windows, and any other permanent structures.
- The submission of photographs with your application is optional. Any photographs that are submitted with the application or at the public hearing shall become part of the application record. Any photos will remain in the Zoning Board of Appeals file in the Building and Land Use Office.

Notice to All Zoning Board of Appeals Applicants

This checklist must be submitted with the completed application.

1. The Application to the Zoning Board of Appeals must be filled out **completely or it may be denied** by the Board as incomplete.
2. **The Hardship must satisfy Connecticut State Statutes Requirements.**
3. **Application fees are not refundable. The application fee is \$495.00** (Section 22a-27j of the Connecticut General Statutes requires an additional fee to be charged for all ZBA applications). payable to the Town of Thomaston.

4. **Torrington Area Health District Approval** is required if the property has an onsite septic system or private water supply.

(See applications for Torrington Area Health District in the Building/Land Use Office)

5. **Inland Wetlands and Watercourses.** If the property has inland wetlands or watercourses located onsite, an application may be required to be submitted to the Inland Wetlands and Watercourses Commission (IWWC) or to the Wetlands Enforcement Officer (WEO). There are fees associated with the submittal of an application to IWWC or the WEO.

(See informational sheet entitled “**Notice to all IWWC Applicants**”)

6. **Outside Consultants Costs:** (*An outside consultant means a professional who is not an officer or employee of the Town*).

If the Board requires a review by an Outside Consultant, e.g. engineer, hydrologist, environmental, or planning consultant, the applicant must pay for the cost of the outside consultants review. If the Board requests an outside consultant, a written estimate of the cost for the review is requested by Board Staff and the written estimate is sent to the applicant.

The applicant then pays the Town for the cost of the review and the Town pays the outside consultant for the review. The review of the outside consultant will not begin until the cost of the review is paid by the applicant to the Town of Thomaston. **If the cost of the outside consultant review fee is not paid in a timely manner, it may lead to the denial of your application by the Board as incomplete due to the required statutory time frames as to when the Board must render a decision on your application.**

7. **Applicants are responsible for all costs associated with this application;**

- Minimum of three (3) legal notices published in the newspaper. Publication is required by the CT General Statutes,
- Certified mailing of the decision of the Board required by the CT General Statutes.
- Notification to abutting property owners of the application and the Public Hearing.
- If the Board approves your variance request, an application for a zoning permit must be completed.
- Associated building permit fees once all your approvals and documentation is complete.

By signing this, you acknowledge that you have read all of the information stated in this document entitled “**Notice to all Zoning Board Appeals Applicants**” and agree to pay all costs associated with this application submitted to the Thomaston Zoning Board of Appeals.

Applicant or Agent

Date

Witnessed by

Date

This sheet must be submitted with the completed application.

Frequently asked Questions regarding the Zoning Board of Appeals **Application Process for Variances**

What is a variance of the Zoning Regulations?

A variance permits you to act in a manner that is not permitted within the Zoning Regulations of the Town of Thomaston. An example of a variance would be a request to locate an addition to a house closer to a side and rear yard property line than is permitted by the Zoning Regulations.

An applicant must show the Board of Appeals that because of something particular to your property, the strict application of the Zoning Regulations produces an exceptional difficulty or unusual hardship that is different from the other properties in the same area of town. The hardship or exceptional difficulty cannot be created by the property owner e.g. "self created hardship".

Why do I need a variance?

Whatever you are proposing is not permitted by the Zoning Regulations of the Town of Thomaston.

Who can grant a variance to the requirements of the Zoning Regulations?

The Zoning Board of Appeals pursuant to Section 8-5 and 8-6 of the Connecticut General Statutes is the only Board in Thomaston that can grant a variance to the Zoning Regulations.

When does the Zoning Board of Appeals meet?

The Zoning Board of Appeals meets the third Tuesday of each month unless otherwise noted. The Board meets at 7:00 PM in Meeting Room #1, Fourth Level, Thomaston Town Hall, 158 Main Street, Thomaston, CT. All meeting dates, agendas, and meeting minutes are posted in the Office of the Town Clerk or are available for review on the Town of Thomaston's website www.thomastonct.org.

How does the Zoning Board of Appeals conduct their hearings?

The Chairman of the Zoning Board of Appeals will call the meeting to order and the Secretary of the Board will read the legal notice into the record of the meeting. The Applicant must then stand or sit at the meeting table and present their application to the Board.

How do I obtain an application?

You can download an application from the Town's website at www.thomastonct.org or pick up an application in the Building and Land Use Office on Level 3 of the Town Hall located at 158 Main St., Thomaston, CT. Office Hours are Monday to Wednesday 8:00 am to 4:00 pm, Thursday 8:30 am to 6:00 pm and Fridays 8:30 am to 12:00 noon.

How does an Applicant present the application to the Board?

The Board has already received a copy of your application with a staff memo reviewing the application. It is suggested that the applicant retain a copy of the submitted application so it can be used by the applicant when presenting the application to the Board.

The Applicant must either sit or stand at the meeting table with the Board and explain to the Board exactly what type of variance is being requested i.g. a front, rear, or side yard property setback that is different than what is permitted by the Zoning Regulations of the Town of Thomaston. The applicant must also be prepared to explain to the Board what hardship or unusual characteristics of their property warrant a variance from the Zoning Regulations of the Town of Thomaston. What are the unusual or unique characteristics of your property as compared to other properties in the same zoning district that make it difficult for you to use your particular property in compliance with the Zoning Regulations?

The Applicant can submit photographs of the property to assist the Board in rendering a decision on the application.

Does the Board make a decision the same night as the public hearing?

The Board has thirty five (35) days to keep the hearing open on the application. If additional information is required, the Board may keep the public hearing open to allow the applicant or anyone else to provide additional information.

If all the information is received the night of the public hearing and the Board does not have any further questions the Board may close the public hearing on the application and render a decision that night.

Please be aware that the Board may close the public hearing the same night the hearing is opened, but may not render a decision until the next monthly meeting.

The Board has sixty five (65) days from the date the public hearing is closed to render a decision on the application.

Does the Board visit the property, which is the subject of the variance?

Yes, the Board members may visit the site individually prior to the public hearing on the Application.

Or

The Board may schedule a field trip to view the site together. The field trip is a posted public meeting of the Board filed with the Town Clerk. There is not any discussion on a field trip. The field trip is intended to provide clarification for Board members.

How many members are on the Zoning Board of Appeals?

The Board consists of five (5) regular members and three (3) alternate members.

Are there a certain number of votes of the Board members that is required in order to grant a variance?

Yes, pursuant to Section 8-7 of the Connecticut General Statutes there must be four (4) affirmative votes of the Zoning Board of Appeals in order to grant a variance to the Zoning Regulations of the Town of Thomaston.

A vote three (3) in favor and two (2) opposed to the variance request constitutes a denial of the variance.

A tie vote two (2) in favor of the variance and two (2) opposed to the variance constitutes a denial.

A vote two (2) in favor of the variance and two (2) opposed to the variance and an abstention constitutes a denial.

The Zoning Board of Appeals will always ask the applicant if there are only four (4) Board members present if the applicant would prefer that the Board wait to vote on an application until five Board members are present.

If my application is approved, what is the timeframe to receive my zoning approvals?

The Zoning Enforcement Officer (ZEO) will publish the legal notice in the newspaper within fifteen (15) days from the date of the decision. An approval letter will be mailed by the ZEO within fifteen (15) days from the date of the approval.

A Certificate of Variance will be signed by an Officer of the Zoning Board of Appeals and the Applicant must file the Certificate of Variance in the Land Records in the Office of the Thomaston Town Clerk within one year from the date of the Approval.

Once the Certificate of Variance is filed then you may complete the administrative application for a Zoning Permit and upon payment of the Application fee for the Administrative Zoning Permit and review by the ZEO, you will receive your Administrative Zoning Permit.

The Zoning Permit does not constitute a Building Permit. Please see the Building Official about necessary building permits.

Do I need to pay a fee in order to file an application for a Variance?

Yes, there is an application fee that must be paid. The applicant is also responsible for paying the cost of the publication of any legal notices in the newspaper and any mailing or administrative costs required by Chapter 154 Fees of the Code of the Town of Thomaston and the Connecticut General Statutes.

See Notice to All Zoning Board of Appeals Applicants in the Zoning Board of Appeals Application Packet.

Is the Application fee refundable if my Application for a Variance is denied by the Zoning Board of Appeals?

No

If my Application for a Variance is denied, can I reapply to the Zoning Board of Appeals?

Yes, you may reapply but be aware Section 8-6 of the Connecticut General Statutes states that **No Zoning Board of Appeals shall be required to hear any application for the same variance or substantially the same variance for a period of six (6) months after a decision by the Zoning Board of Appeals or by a court on an earlier application.**