



City of Westfield

ZONING BOARD OF APPEALS

VARIANCE FAQ

What is a Variance and why do I need one?

A variance is a special exemption from the requirements of the Zoning Ordinance, with which your proposal does not comply. Variances are intended to be granted only in **strict and unique circumstances**, out of **necessity rather than convenience** and only for the **smallest relief absolutely necessary**. A variance overrides the law (zoning ordinance) that was publicly vetted and duly adopted with a supermajority vote of the City Council. This ordinance is normally given deference in protecting public health, safety and welfare - and it is heavily relied upon by abutters to preserve their property values and interests. Generally, you should exhaust all other options before considering a project which requires variance relief.

When does the Board meet?

The Board generally meets on the 1st and 4th Wednesdays of each month, with new applications usually reviewed and accepted on the 1st Wednesday. Meetings are typically at 7pm in Room 315. Official notice of any meeting is posted by the City Clerk at least 2 days prior.

How do I file my application ("petition") and how long will this take?

Deliver two copies of your complete application package to the Community Development & Planning Office no later than the Thursday preceding the 1st Wednesday meeting. You should then attend that ZBA meeting, where the Board will review and accept your application and schedule a formal public hearing (generally the 4th Wednesday). Board members often prefer to visit the property prior to the hearing and, depending on your request, may ask that the subject area be marked (such as the property line or limits of proposed building construction). After filing, allow a minimum of 8-10 weeks for your permit to take effect.

What will this cost me?

The application fee varies depending on the request, either \$250 or \$400. Prior to filing, you will need to obtain an abutters list (\$10 minimum). You must also pay for the required legal ads in the newspaper (\$90), have an approved permit certified by the City Clerk (\$10) and ultimately record it at the Hampden County Registry of Deeds (\$75).

Why do I need to provide an abutters list?

All property owners within 300 feet of your lot will be notified by mail of your pending application and the date of your public hearing, should they wish to attend or comment. Please allow the Assessor's Office sufficient time to prepare your list.

What do I do at the Public Hearing?

The Chair will introduce the application at which time you may approach the Board to speak. You should state your name and address and summarize your request to the Board. Members of the Board may ask you questions as they discuss your petition. Members of the public will also be given an opportunity to ask questions of fact, and to speak for or against it. Though less formal, you should think of this process as if you were in court making a case to a judge or jury. You must provide evidence (by application materials and testimony) to support the Board's legal grant of a variance based on all of the following: (1) the soil conditions, shape, topography or structures unique to the property will result in **substantial hardship** if the zoning ordinance is literally enforced, (2) the variance will not result in detriment to the public good nor (3) nullify or derogate from the zoning ordinance's intent and purpose.

What is a “substantial hardship”?

Proving a substantial hardship is typically a difficult hurdle. The fact that something may simply be desirable is not a hardship. Unauthorized or preliminary construction, expenses already incurred, loss of potential profits and non-conforming conditions on nearby lots do not justify a hardship. Furthermore, any hardship cannot be the result of a self-created situation.

What if I am unable to attend the hearing?

If you or your representative cannot attend, you may request the Board continue your hearing to a future date. This can be done by contacting the Planning Office with your written request. Repeated continuance requests inconvenience the public and the Board, so a \$50 continuance fee may apply.

What if they ask for information I don't have?

The Board may continue the hearing to a future date to allow more information to be considered. *(Once the public hearing is closed, the Board cannot consider new information).*

Can I discuss my petition with Board members privately?

No; all information and testimony which Board members will consider should be openly disclosed during the public hearing. You may discuss your petition anytime with City staff.

When does the Board make their decision?

Generally they vote at their next meeting after the public hearing. All 3 members of the Board must vote in favor of your application *(the Board membership includes 2 alternate members)*.

Can they impose conditions? What if I don't comply?

Yes; the Board may impose conditions, safeguards and limitations. The Board generally discusses proposed conditions with you such that both parties can arrive at a consensus. However, the Board has the right to impose any conditions it sees fit. Failure to comply with the conditions of a variance may constitute a zoning violation, subject to enforcement action.

Can I ever change what I originally proposed?

If you propose changes to what your variance allows, you may file a Zoning Permit to determine if an application for a new variance may be required. You should be aware that a variance is issued for a very specific purpose or project and is not a blanket exemption.

What if my application is denied?

If the Board cannot make the above findings, it cannot approve your application. Denied applications generally cannot be considered again for two years.

They approved my petition! Now what?

A written record of the decision will be filed with the City Clerk shortly thereafter and also mailed to you. After 20 days (during which anyone aggrieved may appeal the decision) you must have the City Clerk sign the decision. Then, in order for the permit to take effect and before any building permit can be issued, you will need to record the document (bearing the City Clerk's signature) at the Hampden County Registry of Deeds (the Registry of Deeds satellite office in City Hall is open Mondays, Wednesdays and Fridays).

Is a variance transferrable? Does it expire?

The variance is linked to the property, regardless of ownership. If more than one year has elapsed since your variance was approved, and you have not exercised the relief it granted, you will need to reapply for a new variance (except that you may request one 6 month extension prior to the expiration date). Once it is exercised, however, a variance does not expire.