

## **ARTICLE IX    ZONING BOARD OF APPEALS**

### **SECTION 9.1            ADMINISTRATION**

The Zoning Board of Appeals as provided by State Statute, shall have the power to adopt from time to time such rules and procedures consistent with law, as may be necessary to carry out the provisions of these Regulations and to exercise the authority vested in it by State Statute.

### **SECTION 9.2            POWERS AND DUTIES**

The Zoning Board of Appeals shall have the following powers and duties all of which shall be exercised subject to appropriate conditions and safeguards, in harmony with the purpose and intent of these Regulations and in harmony with the public health, safety and welfare.

**9.2.1        Appeals:** To hear and decide appeals where it is alleged that there is an error in any order, requirement or decision made by the Zoning Enforcement Officer of the City of Milford. Any appeal of a decision of the Zoning Enforcement Officer shall be taken within 15 days (as required by action taken by the Zoning Board of Appeals on August 2, 1977). Any appeal taken pursuant to this section shall be made on a form available at the Planning and Zoning Office.

**9.2.2        Variances:** To vary the strict application of any of the requirements of these Regulations in the case of an exceptionally irregular, narrow, shallow, or steep lot or other physical conditions for which strict application would result in exceptional difficulty or unusual hardship that would deprive the owner of the reasonable use of the land or building involved. No variance in the strict application of any provision of these Regulations shall be granted by the Zoning Board of Appeals unless it finds:

**9.2.2.1**    That there are special circumstances or conditions fully described in the written findings of the Zoning Board of Appeals, applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or building, and do not apply generally to land or buildings in the district, and have not resulted from any act subsequent to the adoption of these Regulations, whether in violation of the provisions hereof or not; and

**9.2.2.2**    That, for reasons fully set forth in the written findings of the Zoning Board of Appeals, the aforesaid circumstances or conditions are such that the strict application of the provisions of these Regulations would deprive the applicant of the reasonable use of such land or building and the granting of the variance is necessary for the reasonable use of the land or building, and that the variance as granted by the Zoning Board of Appeals is the minimum variance that will accomplish this purpose; and

**9.2.2.3** That the granting of the variance will be in harmony with the purposes and intent of these Regulations, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

**9.2.2.4** That any variance hereafter granted for a non-conforming use or structure shall become null and void twelve months after such granting, if such non-conforming use or structure shall not have commenced.

**9.2.3 Prohibited Variances:**

- (1) Except to the extent uses are not otherwise allowed in one underlying zone, use variances are explicitly prohibited.
- (2) No application to vary any Site Plan requirement imposed by the Planning & Zoning Board shall be accepted by the Zoning Board of Appeals.
- (3) No application to perform new construction or substantial improvements (as defined) to any dwelling with a lowest floor elevation below the regulatory flood protection shall be accepted by the Zoning Board of Appeals.

**9.2.4 Approval of Location:** To approve the location of gasoline stations, motor vehicle dealerships, and motor vehicle repair garages as defined by State Statutes; and in the case of new locations including site expansion subject to prior Special Permit & Site Plan Approval by the Planning and Zoning Board and to the Location Requirements of Section 5.4, herein.

**SECTION 9.3 PROCEDURES**

**9.3.1 Applications:** All appeals and applications made to the Zoning Board of Appeals shall be in writing, on forms prescribed by the Board, and each appeal or application shall fully set forth the circumstances of the case. Every appeal or application shall refer to the specific provision of the regulations involved, and shall exactly set forth as the case may be, the interpretation that is claimed, use for which the special exception is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the same should be granted.

**9.3.1.1** All applications for appeals and variances to the Zoning Board of Appeals shall contain, in addition to five plot plans submitted on standard letter or legal size sheets of paper, location of the buildings on adjacent property on either side, drawn to the same scale as the plot plan and the specific location of all proposed buildings, if applicable. This does not in any way authorize trespassing for any purpose

- (1) Plot plans prepared on larger sheets of paper may be submitted to and accepted by the Zoning Board of Appeals, provided that such plot plans are duly certified by a Registered Land Surveyor.

- (2) No division of a lot, reduction in lot area, reduction in lot width or relocation of common lot lines shall be considered by the Zoning Board of Appeals unless a certified plot plan is submitted with the application.
- (3) No division of a lot, which would reduce the area of the resulting lots below the minimum required lot area of the applicable Zoning District, shall be considered by the Zoning Board of Appeals unless the lot owner obtains a satisfactory sanitation report from the Director of Public Health and submits same with the application.

**9.3.1.2** All applications for approval of location shall be accompanied by an approved Site Plan and/or an authorized Special Permit, as applicable, in accordance with ARTICLE VII, herein.

**9.3.2 Fees:** All applications and appeals shall be accompanied by a fee, as determined from time to time by the Zoning Board of Appeals, to cover the cost of advertising and processing. Said fee shall be paid to the secretary of the Zoning Board of Appeals at the time of filing the application.

**9.3.3 Public Hearing:** The Zoning Board of Appeals shall hold a public hearing on all applications and appeals within 65 days after receipt of the application or notice of appeal and notice of said hearing shall be published in accordance with the provisions of the State Statutes.

**9.3.3.1** If the site is a corner lot or a through lot, both streets will be titled in the legal notice.

**9.3.3.2** At the time of a public hearing on any application for a variance, the applicant shall present Certificates of mailing showing that notice has been sent at least seven days in advance of the hearing to each of the owners of land within 200 feet of the property on which a variance is requested, as their names appear upon the last completed assessment roll of the City. If the boundaries of any condominium project are within the 200 foot notice area, the appropriate unit owners and the condominium association must be notified.

**9.3.3.3** A sign as prescribed by the Zoning Board of Appeals, shall be posted and maintained not more than ten (10) feet from the street and as close to the center of the frontage as possible on the lot where a variance is requested for at least seven days prior to the public hearing. A corner or through lot shall be posted facing every street on which the property fronts

**9.3.4 Board Action:** The Zoning Board of Appeals shall decide each case within 65 days after the date of the public hearing. Notice of the decision of the Zoning Board of Appeals shall be published in accordance with State Statutes.

**9.3.5 Surety:** The Zoning Board of Appeals, in authorizing any use, may require as a precondition to its approval, the filing of satisfactory surety in a form satisfactory to the City Attorney and in an amount established by the Zoning Board of Appeals as sufficient to guarantee completion of those items specified by the Zoning Board of Appeals and in conformity with the provisions of these Regulations or any amendments thereto in force at the time of filing. Such surety shall not be released by the Zoning Board of Appeals until it is satisfied that all of the requirements of these Regulations and all stipulations established as part of the approval have been fully satisfied by the applicant.

**9.3.6 Records:** The Zoning Enforcement Officer shall act as the Executive Secretary to the Zoning Board of Appeals, shall review all applications, shall keep all records of the Zoning Board of Appeals, and shall furnish copies of records, upon request, to any person having a proprietary or tenancy interest in the use, structure or lot affected.

**9.3.6.1** Any variance which is granted by the Zoning Board of Appeals shall be placed upon the land records of the city by filing a record of such variance with the City Clerk.

**9.3.6.2** The Zoning Enforcement Officer shall report any variance to the Federal Insurance Administration upon request.

#### **SECTION 9.4 REVOCATION AND REHEARING**

**9.4.1 Revocation:** Any variance granted by the Zoning Board of Appeals, pursuant to any prescribed conditions or safeguards, shall be subject to revocation by the Zoning Board of Appeals if the said conditions or limitations are not adhered to strictly. Before the Zoning Board of Appeals may revoke its action in granting such variance, it shall hold a public hearing thereon, of which the applicant and property owner in each case shall be given notice and afforded an opportunity to be heard.

**9.4.2 Rehearing:** No application for a rehearing shall be presented to the Zoning Board of Appeals within a period of 6 months from the date of a decision of the Zoning Board of Appeals, which decision denied the application; unless, in the opinion of the Zoning Board of Appeals, there has been an unusual change in conditions, or an error in the decision, or new evidence warrants a rehearing. Approval of Justification for rehearing must be granted by the Zoning Board of Appeals before acceptance of such application.