

TOWN OF SIMSBURY ZONING BOARD OF APPEALS BY-LAWS

Adopted: 9/15/1981

Revised: 4/25/1990, 1/23/1991, 5/20/2008, 11/14/2008, 12/24/2008, 2/25/2009, 4/24/2024

*These By-Laws shall govern unless they are in conflict with the specific wording of the Zoning Regulations themselves.

A. BOARD OF APPEALS ESTABLISHED

A Board of Appeals, hereinafter called the Board, shall be formed and shall serve as provided by the General Statutes and Special Acts of the State of Connecticut. The Board shall consist of six regular members and three alternate members and shall have the following powers and duties:

1. Adopt such rules and procedures as may be necessary to carry out these regulations.
2. To hear and decide appeals where it is alleged that there is error in any order, requirement, or decision made by the town official charged with enforcement of Chapter 124 of the Connecticut General Statutes or any bylaw, ordinance, or regulations adopted under provisions of that chapter, including the Zoning Regulations, and any order, requirement, or decision made by the Building Official.
3. To hear and decide all matters including Special Exceptions and Special Exemptions under Connecticut General Statutes Section 8-2g upon which the Board is required to decide by the specific terms of the Zoning Regulations.
4. To determine and vary the application of the Zoning Regulations in harmony with their general purpose and intent 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 parcels but not affecting generally the district in which it is situated, a literal enforcement of such regulations would result in exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare secured. The Zoning Board of Appeals shall be guided by the following standards in determining whether a request for variance shall be granted.
 - a. The applicant shall demonstrate that exceptional shape, size, topography or unique characteristic of the site requires a variance from a literal enforcement of the Zoning Regulations.
 - b. The exceptional difficulty or unusual hardship claimed shall not have been created by the owner or the person or persons requesting the variance.
 - c. The variance requested shall not adversely affect the neighborhood and shall be in harmony with the purpose and intent of the Zoning Regulations.

- d. The application shall be for the least number of variances possible.
 - e. The applicant shall show that there is no reasonable alternative other than to grant the requested variance(s).
- 5. The requested variance(s) shall not permit on a site any use to exist or to be created which use is not already permitted by right as set forth in the Zoning Regulations for that zone.
 - 6. No variance to the Zoning Regulations shall be granted that is conditioned on an approval by another Board or Commission.
 - 7. No variance shall be granted that will continue or expand a non-conforming use.

B. DECISIONS OF THE BOARD OF APPEALS

- 1. In exercising the above-mentioned powers, the Board of Appeals may, so long as such action is in conformity with the terms of these regulations, reverse or affirm, wholly or partly, or may modify the order, requirement or decision appealed from and may make such order, requirement, or decision, or determination as ought to be made, and to that end shall have all the powers of the administrative official from whom the appeal is taken.
- 2. In granting the variance, the Board of Appeals may prescribe appropriate conditions and safeguards. Violation of such conditions and safeguards, when they have been made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations. It shall be the responsibility of the Zoning Enforcement Officer to enforce the specific conditions of the variance.
- 3. Every application for variance from the Use Regulations as distinguished from the Height and Area Requirements shall be immediately transmitted to the Zoning Commission and the Planning Commission, and on or before the public hearing held by the Board on such application for variance, the Zoning Commission and Planning Commission shall make a report of their recommendation. *See Section F for clarification.*
- 4. A majority of votes from all seated members is required for any action taken by the Board, unless otherwise specified in the Connecticut General Statutes.

C. NOTICE REQUIREMENTS

- 1. Public Information Notice Sign

Whenever an application filed with the Zoning Board of Appeals requires a public hearing, the applicant shall display a Public Information Notice Sign on the site giving notice that an application is pending before the Zoning Board of Appeals. The sign shall be in a manner and form prescribed by the Board and is provided by the Board to the applicant. It shall be displayed in a highly visible place at each location on the site

where the property line abuts a public or private street or at a visible location nearest the site. It shall be the responsibility of the applicant to ensure that the signs remain on display for a period of fifteen (15) days prior to the public hearing and are removed within seven (7) days following the close of the public hearing. The applicant, at the public hearing, shall supply the Board with an affidavit certifying that the Public Information Notice Sign has been placed for the period specified.

2. Notice of the time and place of all public hearings shall be published in a newspaper having a substantial circulation in the Town of Simsbury at least twice at intervals of not less than two days, the first not more than fifteen days nor less than 10 days, and the last not less than two days before such hearing.

D. OFFICERS AND DUTIES

1. A biannual organizational meeting shall be held no sooner than the first meeting after the municipal elections, at which time a Chairman and Secretary shall be elected from among the regular members of the Board by a majority vote of such members to serve for two years or until their successor is duly elected.
2. The Chairman shall:
 - a. Issue the call for the meeting.
 - b. Preside over all meetings.
 - c. Prepare and submit with the help of staff all reports required by law.
 - d. Appoint all alternates to serve as regular members in the absence of sitting members at any given meeting.
3. The Secretary shall:
 - a. Read the call for the Public Hearing.
 - b. Certify all records.
 - c. Act as Chairman in their absence.

In the absence of the Chairman and the Secretary, the next senior regular member in point of service shall be acting Chairman with all the powers and duties of the Chairman.

E. APPLICATION REQUIREMENTS

1. All applications must be submitted to staff **no later than 12:00 PM on the first Friday of the month** to be considered by the Board for that months hearing.
2. No such board shall be required to hear any application for the same variance or substantially the same variance for a period of six months after a decision by the board or by a court on an earlier such application.
3. A certified plot plan must accompany the application showing the new building, unless a signed waiver is available from any member of the board.

F. MEETINGS

Regular meetings of the Board shall be held at the Town Hall at 7:00 PM on the fourth Wednesday of each month (depending upon business or applications). Special meetings may be called from time to time on such notice as the Chairman shall determine or any other time as may be agreed upon by a majority of the Board, so long as all legal notice requirements are met.

All meetings shall be open to the public, unless executive session is moved and voted.

Executive session may only be held in accordance with applicable Connecticut General Statutes.

A quorum shall consist of four members of the board. All variances require at least four positive votes for approval so if only four members are present, the application may be postponed at the request of applicant until at least five members are present without detriment to the applicant, so long as the delay does not affect any legislative timeline requirements.

No member of the Board shall appear for or represent any other person on matters before the Board.

G. ORDER OF BUSINESS AT HEARINGS

The Board shall adopt Robert's Rules of Order as a general guide for the conduct of all regular and special meetings.

The applicant or representative will present their application to the Board. The Board may question all aspects of the application. The applicant may introduce any exhibits they feel will be helpful to the Board including, but not limited to, photographs, site plans, letters from neighboring property owners, traffic studies or models. After the applicant has made their presentation, all such exhibits will be held by staff until the appeal period expires.

An applicant may request postponement of a scheduled hearing if a request is made prior to the date of publication of the first legal notice or may request a continuance of a public hearing after it has been opened.

Any member of the public may speak in favor or in opposition of the application.

The applicant may then respond to any opposition.

No member of the public may be refused time to speak, so long as the content is in the interest of the public and the hearing and is not derogatory toward any member or applicant.

In order to prevent long hearings, the Chairman may set reasonable time limits for any public statements and limit the speaking to new information.

No meeting may continue past 11:00 PM of any meeting night, unless extended by 2/3 vote of the Board.

At the end of discussion, the Chairman will close the public hearing. Once the public hearing is closed, there can be no more new information presented or discussion from the public.

H. EFFECTIVE DATE

A variance or decision of the Board will not become effective until 15 days after the decision has been published in a newspaper. The applicant is also required to record the Certificate of Decision in the Simsbury Land Records in the Office of the Town Clerk.

I. WAIVER OR AMENDMENT OF RULES

These rules may be waived or amended by a majority vote the entire voting membership of the Board, only after the proposed change has been read and discussed at a previous regular meeting, except that these rules may be amended at any meeting by the unanimous vote of the entire voting membership of the Board.

J. APPEALS FROM RULINGS

An appeal may be taken by any persons aggrieved by a decision of the Board in accordance with Connecticut General Statutes §8-7, as amended.

K. CONNECTICUT GENERAL STATUTES

All applicable Connecticut General Statutes are made part of these rules. Should any amendments or new statutes conflict with these rules, the requirements of the Connecticut General Statutes will take precedence.