

POMFRET ZONING BOARD OF APPEALS  
Zoning Variance and Zoning Appeal Application

GENERAL INSTRUCTIONS

A zoning variance permits a landowner to use or build on his or her land in a way which is not allowed by the Pomfret Zoning Regulations. A zoning appeal can reverse a decision of the Zoning Enforcement Officer. If you wish to file a zoning appeal, we recommend that you take the following steps:

1. Set up a meeting with the Zoning Enforcement Officer (ZEO) and/or the Zoning Board Clerk for the purpose of a preliminary discussion of your particular circumstances. One or the other is available every Wednesday at the Pomfret Town Hall from 3:00-6:00 PM or by calling 974-9135. If you call and get an answering machine, please leave a message and your call will be returned promptly.
2. After a discussion with the ZEO and/or Board Clerk, fill out Page 1 of the enclosed application. A separate application should be completed for each variance requested.
3. Deliver Page 1 of the application along with the filing fee to the Pomfret Town Clerk's office or the ZBA Clerk. If the form is delivered to the Town Clerk's office or to the ZBA Clerk by the last Friday of the month, a public hearing on your application can be scheduled for the regular meeting date of the next month.

Before a public hearing is held on any application for a variance or appeal from decision of the Zoning Enforcement Officer, the applicant shall present proof (in the form of certified mail return receipts ) that notice has been received by each of the property owners of contiguous or abutting parcels, including parcels across the street. Such ownership and mailing addresses shall be obtained from current records of the Tax Assessor, and the notices shall be mailed not less than ten or more than thirty days before the public hearing.

Regular meeting dates are the 3<sup>rd</sup> Monday of every month and meetings are held at the Pomfret Senior Center at 7:00 PM.

4. Prepare the necessary submittals, as described on Page 2 of the application.

NOTE: There are two different levels of mapping, depending on the complexity of your application. The higher level requires an A-2 Survey, prepared by a licensed surveyor in accordance with the requirements of Section 5 of the Pomfret Zoning Regulations. The lower level of mapping can be prepared by the applicant or a competent draftsman. **The ZEO will determine which level of mapping is required for your application as determined by Submittals Page 2, Item 1.**

5. You (or your representative) should attend the public hearing on your application.

Every application for a zoning variance (or appeal) is required by state statute to include a public hearing. At that hearing, you and the general public may comment on your application.

If you have not delivered the required submittals to the Town Clerk's office or to the ZBA Board Clerk, you must bring them to the public hearing.

A public hearing may be concluded during the meeting in which the application is presented to the ZBA or it may be continued to the following month if more time or information is required. Once the public hearing is concluded, no additional information on your application may be considered by the ZBA and no further discussion is allowed except by the Board.

6. A decision on an application may be rendered immediately following the conclusion of the public hearing. Approval must be by affirmative vote of four members. Decisions of the ZBA become effective upon publication in a local newspaper and are appealable to Superior Court within fifteen days of the effective date of the decision.

## Line by Line Instructions for Page 1

(Please type or print legibly)

1. Address should be the street address of the subject property, not a post office box or a different mailing address.
2. Map, block, and lot can be obtained from the Tax Assessor's office (974-1674).
3. The type of variance and the specific regulation that you are requesting to be waived will be found in the Pomfret Zoning Regulations. Typically, Section 4, "Residential Requirements" is where you will look for the specific regulation. Obtain the most recent version of the Pomfret Zoning Regulations from the Town Clerk's office or the Zoning Enforcement Officer.
4. The purpose of the variance should be a description of the proposed construction or use.
5. The ZBA is only allowed to issue a variance if the applicant can demonstrate that a hardship will result from strict enforcement of the regulation. The Connecticut courts have clearly stated that a valid hardship cannot be either self-imposed or solely financial. The hardship must apply to the property and not to a person, as a variance remains with the property and stays in effect, despite a change in ownership.

*Hardship – a peculiar or unique 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 owner 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. Proof of a true hardship is a legal requirement for a zoning board of appeals to issue a variance. (What's Legally Required? by Michael A Zizka)*

- A. A property is eligible for consideration for a variance if there is something about the size, shape, or topography of the subject parcel that is similar to other properties in the same district but which renders it unusable under the current local zoning regulations.
- B. Circumstances warranting a variance must be caused by the zoning ordinance and not by the property owner.
- C. Inconvenience or impact to property value does not constitute a hardship.
- D. Showing that the property cannot be used for any purpose for which it is reasonably adapted or for which it is currently zoned may constitute a hardship.

In addition to the above, the Zoning Board of Appeals must find that the variance requested will not be contrary to the public interest, that the spirit of the zoning ordinance shall be observed, and substantial justice done. The applicant must demonstrate and the Zoning Board of Appeals must find that the granting of the variance will not be harmful to the public interest and not derogate from the intent of the zoning ordinance.

6. This information can be obtained from the Board Clerk or the Zoning Enforcement Officer (974-9135).
7. Before a public hearing is held on any application for a variance or appeal of a decision of the Zoning Enforcement Officer, the applicant shall present proof ( in the form of certified mail return receipts) that notice has been received by each of the property owners of contiguous or abutting parcels, including parcels across the street. Such ownership and mailing addresses shall be obtained from current records of the Tax Assessor, and the notices shall be mailed not less than ten or more than thirty days before the public hearing.
8. Please provide any additional information which you, the ZEO and/or the ZBA Clerk feel will assist the Board in its deliberations.
9. and 10. Please be sure that both the "Applicant" and the "Owner of Record" signature lines are signed and dated, even if the applicant and the owner of record is the same person.

ZONING BOARD OF APPEALS  
TOWN OF POMFRET, CONNECTICUT  
APPLICATION FORM FOR A ZONING VARIANCE  
(See Line by Line Instructions on previous page)

- 1.) Address or location of property: \_\_\_\_\_
- 2.) Assessor's location by: Map \_\_\_\_\_ Block \_\_\_\_\_ Lot \_\_\_\_\_  
Is any part of this property within 500' of a Town boundary line? YES \_\_\_\_\_ NO \_\_\_\_\_
- 3.) Indicate the type of variance requested and the specific regulation which is subject to the variance. If more than one variance, list each separately.

TYPE OF VARIANCE

(For example: "side yard setback, front yard setback,  
lot size, buildable area, etc.)

SPECIFIC REGULATION BY SECTION & NUMBER

(For example: "4.4, 4.5, 4.6, 4.7" etc.)

_____	_____
_____	_____
_____	_____
_____	_____

- 4.) Briefly state the purpose of the variance  
(For example: "to build a two-car garage, to build a new home, to add a porch," etc.)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- 5.) Briefly state the specific hardship which causes the need for the variance  
(Please read the instructions on previous page regarding "hardship")

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- 6.) If variances for this property have previously been requested, indicate the application number, the date of ZBA action and the action taken: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- 7.) Record of notice to abutters as described in General Instructions, paragraph 3: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- 8.) Other comments:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**(PAGE 1 CONTINUED)**

9.) APPLICANT(S): (If more than one, list separately)

Name(s) \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Telephone Home \_\_\_\_\_ Work/Cell \_\_\_\_\_

E-mail \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

10.) OWNER(S) OF RECORD: (If more than one, list separately)

Names(s) \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Telephone Home \_\_\_\_\_ Work/Cell \_\_\_\_\_

E-mail \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

By this signature, I (we), the owner(s) of record, hereby agree to the following:

1.) If other than myself, I designate the "Applicant" to act as my spokesperson & agent in these proceedings.

2.) I permit access to the property in question for official on-site inspections relative to this application.

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APPLICATION WAS:      Approved \_\_\_\_\_      Denied \_\_\_\_\_      Date of Decision \_\_\_\_\_

Signature of Chair or Acting Chair \_\_\_\_\_

POMFRET ZONING BOARD OF APPEALS  
Zoning Variance and Zoning Appeal Application

SUBMITTALS

The following items are **required** submittals for zoning variance and appeal applications. The information included in the submittal is necessary for the Zoning Board of Appeals to diligently examine and consider an application. Failure to provide these submittals may result in delay or rejection of your application.

Please consult with the Zoning Enforcement Officer and the ZBA Clerk regarding the proper preparation of these submittals. The ZEO shall determine the completeness of all applications. The ZEO shall only accept applications once determined complete as outlined below. Office hours are Wednesdays from 3:00 PM to 6:00 PM.  
Telephone: 860- 974-9135

- 1.) Either a comprehensive site plan or a site plan of lesser technical substance.

A comprehensive site plan, prepared by a registered surveyor or engineer meeting all of the requirements of Section 5 of the Pomfret Zoning Regulations, is required for all applications unless it is determined by Zoning Enforcement Officer (or designee) or it is determined by majority vote of the whole board, that a site plan of lesser technical substance is appropriate. Such a determination shall be made only where the lower level of mapping will clearly provide adequate information for the Board to act with due diligence. The lower level of mapping shall include:

Site plan drawn to scale, including:

- a. Lot boundaries and lot dimensions
- b. Lot frontage existing on an existing way
- c. North arrow
- d. Lot size
- e. Driveway location and design
- f. All existing construction (buildings, drainage, etc.)
- g. Well and septic
- h. All proposed construction
- i. Significant natural features (e.g. streams, ledge, topography)
- j. Setback lines per Pomfret Zoning Regulations
- k. Any additional information pertinent to the application

Upon examination of the application, the Board may override the lower level determination, and require the applicant to return with a comprehensive site plan and/or additional information.

- 2.) A location map showing where the lot is situated. This can be a simple photocopy of a Pomfret street map, with the subject property highlighted.
- 3.) If a floorplan and/or architectural drawings of existing and proposed construction are pertinent to your application, you shall provide those drawings.
- 4.) If your application is for a non-conforming use, you shall provide a clear description of the existing use and of the proposed change.
- 5.) If it is determined by the ZEO or by the Board that additional information is necessary in order to diligently examine and consider your application, you shall provide that information.

Application forms and submittals shall be delivered to the Town Clerk's office or to the ZBA Board Clerk at Pomfret Town Hall, 5 Haven Road, Pomfret Center, CT 06259.