



**Guidelines for Variance Applications  
And  
Presentations to the Wilton Zoning Board  
Of Appeals**

# **Guidelines For Variance Applications And Presentations to the Wilton Zoning Board Of Appeals**

**By L. Michael Rudolph  
(March, 2019)**

***IMPORTANT NOTE:* EACH APPLICATION TO THE ZONING BOARD OF APPEALS IS ALWAYS CAREFULLY CONSIDERED ON ITS OWN MERITS. THE PURPOSE OF THESE GUIDELINES IS TO HELP THE APPLICANT BETTER FOCUS HIS/HER APPLICATION FOR A VARIANCE AND HIS/HER PRESENTATION OF THE FUNDAMENTAL ISSUES THAT ARE GENERALLY CONSIDERED BY THE ZONING BOARD OF APPEALS. THESE GUIDELINES ARE NOT INTENDED TO GIVE LEGAL ADVICE. IF LEGAL ADVICE OR OTHER EXPERT ASSISTANCE IS REQUIRED, THE SERVICES OF A COMPETENT PROFESSIONAL SHOULD BE SOUGHT.**

- 1. These Guidelines are intended to be helpful in cases where the Wilton Zoning Board of Appeals (“ZBA”) is being asked to consider applications from property owners who are seeking permission (“Variance”) to be excused from the need to strictly comply with the Zoning Regulations of the Town (“Regs”).**
- 2. The authority of the ZBA is strictly limited by Connecticut law. The ZBA can only grant a Variance application if you demonstrate that the unusual size, shape or topography of your lot, or other unusual physical conditions relating to your**

**lot or any building on it, make it impossible for Wilton to strictly apply a specific provision of its Regs (i.e., setback requirements) to your lot without it resulting in exceptional difficulty or unusual hardship.**

**3. In approving any Variance, the ZBA must do substantial justice to all concerned and secure the public health, safety and welfare. There will generally be five ZBA members sitting on a case with the affirmative votes of at least four members required under Connecticut law for the granting of any application. Note, however, that should only four ZBA members be present, four votes in favor are required.**

## **PREPARATION OF YOUR WRITTEN APPLICATION**

**It is important that you provide us with all relevant information to help us hear and consider your application. We suggest that you:**

**I. Carefully re-read your application and drawings before you submit them. Make certain that your application contains all the variances you require. Check the setback requirements, but also review the site and building coverage requirements that may be affected by your proposed construction. After legal notice of your application has been published in the newspaper, the ZBA cannot grant any variance that was not part of your filed application. In other words, it will be too late to amend your application.**

**II. The ZBA requires a survey or a site plan that shows the exact nature and extent of the variance(s) you seek. Make certain that the property lines and setback measurements are exact and drawn to scale. It may be advisable to consult with a licensed surveyor, engineer or architect to more accurately satisfy this requirement.**

**III. Be certain that the measurements in your drawings agree with the variance requested in your application. For example, do not submit an application requesting a 20-foot setback variance when your drawings indicate that the proposed setback is actually 18 feet.**

**IV. Make your drawings complete, exact and drawn to scale. Show all measurements that are relevant to your application. Show all measurements both as contemplated and as built. Submit exact scale measurements, not approximations.**

## **PRESENTATION OF YOUR APPLICATION AT THE PUBLIC HEARING**

**In order for the ZBA to be able to consider your application, you must present evidence that will enable the ZBA to determine that:**

**A. There are special circumstances or conditions applying to your lot or structure which are peculiar to that lot or structure and which do not generally apply to other lots or structures in your neighborhood;**

**B. Those special circumstances or conditions have not resulted from any willful act of the applicant or the willful act of a previous owner of the property;**

**C. Because of those special circumstances or conditions, a Variance is necessary for your reasonable use of the lot or structure;**

**D. The Variance is the minimum adjustment necessary to accomplish the purpose of the Variance;**

**E. The Variance is in harmony with the general purpose and intent of the Regs and the Town's Plan of Conservation and Development;**

**F. The Variance will not be injurious to your neighborhood or otherwise detrimental to the public health, safety and welfare;**

**G. The need for the Variance is not based upon the nonconformity of neighboring lots, uses, buildings or structures nor upon financial or economic hardship.**

**H. Due to the exceptional nature of variances, be prepared to demonstrate that the Variance you seek is the minimum that is necessary. For example, if a five-foot variance is sufficient, apply for five feet.**

**I. Demonstrate that the special topography of your property will not permit the improvement you want to make without the Variance you seek. If there are other areas of your property that will permit the improvement without the Variance, you must show why the improvement cannot be placed in that other area. Be prepared to discuss with the ZBA any alternative construction plans you may have explored.**

**J. Remember that financial reasons are not sufficient cause for a Variance and cannot be considered as such. For example, if the topography of your property will permit construction without the need for a Variance, it is insufficient for you to show that your construction expenses will be less if the Variance is granted.**

**K. If you are seeking a Variance for an existing structure or improvement, be prepared to demonstrate that you or your agents did not create it. For example, do not put in a pool without carefully checking its location and then seek a Variance to legalize a setback violation.**

**L. Members of the ZBA will make every effort to visit your property and walk the site prior to the public hearing, although a site visit is not legally required. It will be helpful if you have stakes placed to aid in the identification of the exact area relating to your application. It is not necessary that you be present for that visit, but please try to contain animals that may interfere with the site inspection.**