

Town of Windsor Locks

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MEMO

To: Zoning Board of Appeals
Re: 218 Elm Street
Date: July 6th, 2020

Comments:

1. The applicant Les Hinckley has submitted a request for a variance for the property located at 218 Elm Street to extend an existing, non-conforming driveway to a proposed garage, where the driveway is 0 feet from a side property line where 12 feet are required in a Residential A Zone.
2. The applicant has submitted an application for your reference.
3. The applicant has claimed a hardship for your review:
Unable to extend existing driveway through any other area of the property without disruption of existing home, in-ground pool, and patio.
4. Per Connecticut General Statutes, the Board will need to consider whether a valid hardship has been determined.
5. Per Connecticut General Statutes, the Board will also need to consider whether or not the result of the requested variance is in harmony with the area in respect to public health, safety, property values and neighbor impact.
6. If the board finds that both requirements of #4 and #5 are met, and there is a motion made to approve the request, the Board shall enumerate the hardship(s) for the record as part of the motion.
7. Enclosed please find references to the Connecticut General Statutes related to decision making and procedural requirements of the Zoning Board of Appeals.

If valid hardship has been determined and there is a motion to grant the variance request, below are conditions for the Board's consideration. Should the Board find these conditions appropriate they should be read as part of the motion:

1. The granting of this variance is for the improvements proposed in this application only, permitting a certain exception to the requirements of Section 225, Driveways.
2. The hardship upon which this decision is based is:

3. This is not a permit to construct or install. Please see the Building and Land Use office for permit requirements.

What is a Variance?

A variance is authority granted to a property owner to vary a zoning regulation due to an exceptional difficulty or unusual hardship. To obtain a variance, three conditions must be met:

1. Adherence to the strict letter of the zoning regulations must be shown to cause unusual hardship unnecessary to the carrying out of the general purposes of the zoning regulations, and
2. The variance must be shown not to substantially affect the comprehensive zoning regulations, and
3. The hardship may not be financial or self-created, that is due to the actions of the owner.

A variance is not personal to the person who applied for and received it. It does not expire when there is a transfer of title to the property. Rather, the variance runs with the land permanently and passes to future owners.

What is a Hardship?

The hardship is the justification for granting the variance. A hardship has two parts:

1. It originates in the property, and
2. Arises directly out of the application of the ordinance to circumstances or conditions beyond the control of the party involved.

The applicant has the burden of proving hardship particularly affecting his land by application of the zoning ordinance. The applicant must show that because of some peculiar characteristic of his/her property, the strict application of the zoning ordinances results in an unusual hardship, as opposed to the general impact, which the ordinance has on other properties in the zone.

Examples of conditions generally not considered hardships:

- Hardships that result from the applicant's voluntary act are called self-created.
- Aesthetic reasons are not a hardship.
- Financial loss or the potential of financial advantage is not a proper basis for a variance, and does not constitute a hardship.
- Loss of competitive advantage is not sufficient for a variance.

Procedurally:

Sec. 8-7 of the Connecticut General Statutes states that "The concurring vote of four members of the zoning board of appeals shall be necessary to decide in favor of the applicant any matter upon which it is required to pass under any bylaw, ordinance, rule or regulation or to vary the application of the zoning bylaw, ordinance, rule or regulation." and

"Whenever a zoning board of appeals grants or denies any special exception or variance in the zoning regulations applicable to any property it shall state upon its records the reason for its decision and the zoning bylaw, ordinance or regulation which is varied in its application or to which an exception is granted and, when a variance is granted, describe specifically the exceptional difficulty or unusual hardship on which its decision is based."