



**TOWN OF WELLS ZONING BOARD**  
**CHAPTER 116. FLOOD MANAGEMENT**  
**ADMINISTRATIVE VARIANCE APPEAL PETITION**

**\*\*ALL ITEMS ON THIS APPLICATION MUST BE COMPLETED\*\***

NAME OF APPELLANT: \_\_\_\_\_ PHONE: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

CITY/TOWN                      STATE                      ZIP CODE

LOCATION OF PROPERTY: \_\_\_\_\_

TAX MAP# \_\_\_\_\_ LOT# \_\_\_\_\_ ZONE \_\_\_\_\_ YEAR PURCHASED \_\_\_\_\_

NAME OF OWNER \_\_\_\_\_ PHONE: \_\_\_\_\_  
(IF DIFFERENT THEN APPELLANT)

EMAIL ADDRESS: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

CITY/TOWN                      STATE                      ZIP CODE

**Justification of Variance**

The Wells Zoning Board of Appeals will decide your appeal based on your answers, responses and testimony to the four following questions. Please be very exact and as detailed as possible.

Please use additional sheets of paper as needed.

*Chapter 116-10 (4) A determination that failure to grant the variance would result in undue hardship, which in this subsection means:*

**(a)** That the land in question cannot yield a reasonable return unless a variance is granted; and

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**(b)** That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and

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**(c)** That the granting of a variance will not alter the essential character of the locality; and

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**(d)** That the hardship is not the result of action taken by the applicant or a prior owner.

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## **TOWN OF WELLS ZONING BOARD OF APPEALS APPLICATION PACKET REQUIREMENTS**

**Twelve (12) separate packets of the following must be submitted to hold a place on the agenda:**

- a. Copy of completed Appeal application.
- b. Cover letter addressed to the Zoning Board of Appeals stating what you want to do.
- c. Plot plan showing the site and location of all structures, existing and proposed, in relation to the lot lines and, if applicable. Indicate parking. Lot size and setback dimensions must be shown.
- d. Floor plan, if applicable, showing dimensions of existing and proposed rooms and /or structures.
- e. Copy of the tax map (obtained in the Assessor's Office) with the property highlighted.
- f. Photos of property.
- g. Deed, sales agreement, lease or intent to lease.
- h. Owner, lessee, prospective purchase or legal representation must sign the application.
- i. A letter from the property owner giving permission to the application to represent the property if applicable.
- j. A list of all direct abutters located within 100 feet of the property, along with their mailing addresses.
- k. All plans must also be folded neatly with each packet and banded.

If additional information is needed to complete the packet for the Zoning Board of Appeals, you will be notified. Please make sure you include a contact phone number and email address on your cover letter. If we cannot contact you, the item may be tabled until the next regular meeting.

The application fee is \$200.00 with an Escrow of \$500 to appear before the Zoning Board of Appeals. Please note that the Escrow Deposits required throughout the application process is for direct reimbursable expenses such as postage costs, public notice advertising costs and copying.

You may apply for an appeal/permit at the Town Hall, Code Enforcement Office, Monday through Friday between 8:00 a.m. and 3:00 p.m. **If you choose to file on the deadline date, please note that applications are accepted only until noon on that day.**

You will be sent an email confirming the time and date of the scheduled meeting along with an Agenda.

## Chapter 116. Floodplain Management

### § 116-10. Appeals; variances.

The Zoning Board of Appeals of the Town of Wells may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer in the administration or enforcement of the provisions of this chapter. The Zoning Board of Appeals may grant a variance from the requirements of this chapter consistent with state law and the following criteria:

A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

B. Variances shall be granted only upon:

(1) A showing of good and sufficient cause; and

(2) A determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and

(3) A showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and

(4) A determination that failure to grant the variance would result in undue hardship, which in this subsection means:

(a) That the land in question cannot yield a reasonable return unless a variance is granted; and

(b) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and

(c) That the granting of a variance will not alter the essential character of the locality; and

(d) That the hardship is not the result of action taken by the applicant or a prior owner.

C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Zoning Board of Appeals may impose such conditions to a variance as it deems necessary.

D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use, provided that:

(1) Other criteria of §§ 116-10 and 116-6M are met; and

(2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of historic structures upon the determination that:

(1) The development meets the criteria of § 116-10A through D above; and

(2) The proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

F. Variances may be issued for new construction and substantial improvement of agricultural structures being used for the conduct of agricultural uses, provided that:

(1) The development meets the criteria of § 116-10A through C; and

(2) The development meets the criteria of § 116-6M and N.

G. Any applicant who meets the criteria of § 116-10A through E shall be notified by the Zoning Board of Appeals in writing over the signature of the Chairman of the Zoning Board of Appeals that:

(1) The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;

(2) Such construction below the base flood level increases risks to life and property; and

(3) The applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

H. Appeal procedure for administrative and variance appeals.

(1) An administrative or variance appeal may be taken to the Zoning Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer.

(2) Upon being notified of an appeal, the Code Enforcement Officer, as appropriate, shall transmit to the Zoning Board of Appeals all the papers constituting the record of the decision appealed from.

(3) The Zoning Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.

(4) The person filing the appeal shall have the burden of proof.

(5) The Zoning Board of Appeals shall decide all appeals within 35 days after the closing of the hearing and shall issue a written decision on all appeals.

(6) The Zoning Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a flood hazard development permit, which includes any conditions to be attached to said permit.

(7) Any aggrieved party who participated as a party during the proceedings before the Zoning Board of Appeals may take an appeal to Superior Court in accordance with state laws within 45 days from the date of any decision of the Zoning Board of Appeals.



## TOWN OF WELLS

### ZONING BOARD OF APPEALS

### MEETING PROCESS

- You or your representative must attend the Zoning Board meeting in order to present your case and to answer any questions the Board may have concerning your Appeal, have a copy of your Appeal packet with you.
- First, the Chairperson will call the meeting to order and read/explain the Board procedures. Next, roll call of Board members present will take place. The meeting will then open to the first Appeal on the Agenda.
- The first Applicant will come forward to the small front table and give a verbal summary of what it is that they are appealing to the Board. You then may need to answer questions from the Board.
- The Public will have a chance to respond when the Chair first asks the public as to who would like to respond to the Appeal application. The Applicant will be able to respond after all the public comments.
- When the Board is satisfied that they have all the information they need to make a decision, the Chairperson will close the meeting to public comment and the Board will move on to the next appeal.
- The process continues until all appeals are heard. The Board will make a motion (usually in the affirmative) and then further discuss the issues involved.
- On rare occasions the Board may open the public portion again temporarily to ask another question to the applicant.
- After deliberations on each appeal, the Board will confirm which one of the members will write the Findings of Fact for the perspective appeals.
- Findings of Fact will be reviewed at the next regularly scheduled meeting (usually in two weeks) and a decision will be made at that time.
- The Chairperson will then proceed with other business, approval of minutes and adjourn the meeting.
- At the next meeting, once the decisions have been made on these appeals, a copy of the Board's decision will be mailed to you. We will also include a building permit application if deemed necessary.
- The Building Permit Application will have to be filled out and returned to the Code Enforcement Office on the second floor of Town Hall, along with the appropriate fees as indicated on the permit application, along with the specifications of that particular permit application. Please note that all those specifications are your responsibility to bring with you, not the Town to copy and add into your submissions.
- Any submissions that were in your Appeal packet and are necessary for the building permit, but are missing, will be copied from the Appeal packet and billed to you at \$0.50 per page.
- The Building Permit Application will then be processed. It takes approximately 14 business days to approve the permit.
- You must call and schedule inspections as stated in your permit application packet.
- If a Certificate of Occupancy is necessary, you must call and schedule with us at 646-5187. Once the inspector is satisfied you have complied with all State and local regulations, a Certificate of Occupancy will be issued.