



General Assembly

February Session, 2020

***Raised Bill No. 5473***

LCO No. 2626



Referred to Committee on PLANNING AND DEVELOPMENT

Introduced by:  
(PD)

***AN ACT CONCERNING THE GRANTING OF VARIANCES BY ZONING  
BOARDS OF APPEALS.***

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1 Section 1. Section 8-6 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2020*):

3 (a) As used in this section:

4 (1) "Use variance" means a variance granted by the zoning board of  
5 appeals of a municipality, pursuant to subdivision (1) of subsection (c)  
6 of this section, to permit use of a parcel of land for a purpose prohibited  
7 or not otherwise allowed by zoning bylaws, ordinances or regulations  
8 of such municipality; and

9 (2) "Area variance" means a variance granted by the zoning board of  
10 appeals of a municipality, pursuant to subdivision (2) of subsection (c)  
11 of this section, to permit construction of buildings, structures or other  
12 improvements upon a parcel of land in a manner not otherwise allowed  
13 by area, bulk, setback or parking requirements of zoning bylaws,  
14 ordinances or regulations of such municipality.

15     **(b)** The zoning board of appeals shall have the following powers and  
16 duties:

17     (1) To hear and decide appeals where it is alleged that there is an error  
18 in any order, requirement or decision made by the official charged with  
19 the enforcement of this chapter or any bylaw, ordinance or regulation  
20 adopted under the provisions of this chapter;

21     (2) ~~[to]~~ To hear and decide all matters including special exceptions or  
22 special permits, as provided in section 8-2, and special exemptions  
23 under section 8-2g upon which it is required to pass by the specific terms  
24 of the zoning bylaw, ordinance or regulation; and

25     (3) ~~[to]~~ To determine and vary the application of the zoning bylaws,  
26 ordinances or regulations in harmony with their general purpose and  
27 intent, and with due consideration for conserving the public health,  
28 safety, convenience, welfare and property values, solely [with respect to  
29 a parcel of land where, owing to conditions especially affecting such  
30 parcel but not affecting generally the district in which it is situated, a  
31 literal enforcement of such bylaws, ordinances or regulations would  
32 result in exceptional difficulty or unusual hardship so that substantial  
33 justice will be done and the public safety and welfare secured, provided  
34 that the] in accordance with subsection (c) of this section. The zoning  
35 regulations may specify the extent to which uses shall not be permitted  
36 by variance in districts in which such uses are not otherwise allowed.  
37 No such board shall be required to hear any application for the same  
38 variance or substantially the same variance for a period of six months  
39 after a decision by the board or by a court on an earlier such application.

40     (c) (1) The zoning board of appeals may grant a use variance where,  
41 owing to conditions especially affecting a parcel of land but not affecting  
42 generally the district in which such parcel is situated, a literal  
43 enforcement of the bylaws, ordinances or regulations would result in  
44 unusual hardship, and so that substantial justice will be done and the  
45 public safety and welfare secured. Prior to granting a use variance, the  
46 board of zoning appeals shall determine that:

47 (A) The use for which such variance is being granted will not impair  
48 the essential character of the neighborhood, or the objectives of the plan  
49 of development of the municipality, in which such parcel is situated;  
50 and

51 (B) Such unusual hardship is not the result of any act or omission of  
52 the person applying for such variance for such parcel of land.

53 (2) The zoning board may grant an area variance where the benefit of  
54 granting such variance to the person applying for such variance for a  
55 parcel of land exceeds any adverse effect of granting such variance to  
56 the health, safety and welfare of the neighborhood or community in  
57 which such parcel is situated. Prior to granting or denying an area  
58 variance, the board of zoning appeals shall consider, as applicable,  
59 whether:

60 (A) Such variance will adversely affect the character of such  
61 neighborhood or any nearby property;

62 (B) Such benefit may be achieved by some feasible alternative that  
63 does not require such variance;

64 (C) Such variance will adversely affect the physical or environmental  
65 conditions of such neighborhood;

66 (D) Granting such variance will facilitate compliance with the  
67 requirements of any bylaw, ordinance or regulation concerning life,  
68 health or safety, including, but not limited to, regulations for flood-  
69 prone areas and accessibility by disabled persons;

70 (E) Granting such variance will reduce impacts on any wetland,  
71 watercourse or upland review area;

72 (F) Granting such variance would violate any provision of the  
73 National Flood Insurance Program, 44 CFR Part 59 et seq.;

74 (G) Such variance will be consistent with the plan of development of  
75 the municipality in which such parcel is situated; and

76 (H) Such parcel's noncompliance with any zoning bylaw, ordinance  
77 or regulation is the result of any act or omission of such person, which  
78 consideration shall be relevant to the grant or denial of such variance  
79 but shall not necessarily prohibit any such grant.

80 (3) Notwithstanding the provisions of subdivisions (1) and (2) of this  
81 subsection, the zoning board of appeals may grant a use variance or area  
82 variance where granting such variance will reduce the amount of  
83 nonconforming uses in the municipality in which such parcel is situated.

84 (4) Prior to granting any use variance or area variance, the zoning  
85 board of appeals may impose reasonable conditions and restrictions  
86 directly related to, and incidental to, the proposed use of such parcel,  
87 provided any such condition shall be imposed for the purpose of  
88 minimizing any adverse effect such variance may have on the  
89 neighborhood or community in which such parcel is situated.

90 [(b)] (d) Any variance granted by a zoning board of appeals shall run  
91 with the land and shall not be personal in nature to the person who  
92 applied for and received the variance. A variance shall not be  
93 extinguished solely because of the transfer of title to the property or the  
94 invalidity of any condition attached to the variance that would affect the  
95 transfer of the property from the person who initially applied for and  
96 received the variance, provided such board may condition the grant of  
97 an area variance that provides for accessibility by disabled persons on  
98 the continuation of the need for such accessibility.

99 Sec. 2. Subsection (b) of section 22a-105 of the general statutes is  
100 repealed and the following is substituted in lieu thereof (*Effective October*  
101 *1, 2020*):

102 (b) The following site plans, plans and applications for activities or  
103 projects to be located fully or partially within the coastal boundary and  
104 landward of the mean high water mark shall be defined as "coastal site  
105 plans" and shall be subject to the requirements of this chapter: (1) Site  
106 plans submitted to a zoning commission in accordance with section 22a-  
107 109; (2) plans submitted to a planning commission for subdivision or

108 resubdivision in accordance with section 8-25 or with any special act; (3)  
109 applications for a special exception or special permit submitted to a  
110 planning commission, zoning commission or zoning board of appeals  
111 in accordance with section 8-2 or with any special act; (4) applications  
112 for a variance submitted to a zoning board of appeals in accordance with  
113 subdivision (3) of subsection (b) of section 8-6 ,as amended by this act,  
114 or with any special act, and (5) a referral of a proposed municipal project  
115 to a planning commission in accordance with section 8-24 or with any  
116 special act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2020</i>	8-6
Sec. 2	<i>October 1, 2020</i>	22a-105(b)

**Statement of Purpose:**

To specify the conditions under which zoning boards of appeals may grant variances.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*