Newtown Planning and Zoning Commission
AMENDMENT TO THE ZONING REGUATIONS
Pertaining to Miscellaneous Provisions Concerning the Zoning Board of Appeals
Effective November 28, 2005

The Newtown Zoning Regulations at Article XI – Administration shall be amended as follows:

Section 11.05 through 11.05.130 shall be deleted in its entirety and the following shall be inserted in lieu thereof:

ARTICLE XII
ZONING BOARD OF APPEALS

SECTION 1 – ZONING BOARD OF APPEALS

12.01 Zoning Board of Appeals

12.01.100 Purpose and Intent. The Zoning Board of Appeals as provided by State Statute, shall have the power to adopt from time to time such rules and procedures consistent with law, as may be necessary to carry out the provisions of these Regulations and to exercise the authority vested in it by State Statute.

12.01.200 Powers and Duties. The Zoning Board of Appeals shall have the powers and duties reposed in it by the Connecticut General Statutes and these Regulations, all of which shall be exercised subject to appropriate conditions and safeguards, in harmony with the purpose and intent of these Regulations and in harmony with the public health, safety and welfare.

12.01.210 Appeals. To hear and decide appeals where it is alleged that there is an error in any order, requirement or decision made by the Zoning Enforcement Officer of the Town of Newtown. Any appeal taken pursuant to this section shall be made on a form available at the Land Use Office and within the time allowed by the Connecticut General Statutes.

12.01.220 Variances. To vary the strict application of any of the requirements of these Regulations in the case of an exceptionally irregular, narrow, shallow, or steep lot or other physical conditions for which strict application would result in exceptional difficulty or unusual hardship that would deprive the owner of the reasonable use of the land or building involved. No variance in the strict application of any provision of these Regulations shall be granted by the Zoning Board of Appeals unless it finds:

12.01.221 There are special circumstances or conditions fully described in the written findings of the Zoning Board of Appeals, applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or building, and do not apply generally to land or buildings in the district, and have not resulted from any self-created hardship or any act subsequent to the adoption of these Regulations, whether in violation of the provisions hereof or not; and

12.01.222 The aforesaid circumstances or conditions are such that the strict application of the provisions of these Regulations would deprive the applicant of the reasonable use of such land or building and the granting of the variance is necessary for the reasonable use of the land or building; and

12.01.223 The variance as granted by the Zoning Board of Appeals is the minimum variance that will accomplish the purpose set forth herein; and

12.01.224 The granting of the variance will be in harmony with the purposes and intent of these Regulations, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

12.01.230 Special Permits. To issue Special Permits for detached above ground water towers or tanks. Before granting any such special permit, the Board of Appeals shall find that the following standards have been or will be met:

12.01.231 The proposed structure will not substantially impair property values in the neighborhood;

12.01.232 The proposed structure is consistent with the purpose and intent of these regulations and will not be otherwise detrimental to public health and safety. (Effective 11/29/99)

12.01.233 The proposed structure will not cause interference with radio or TV reception in the vicinity;

12.01.234 The proposed structure will not create a health or safety hazard to persons or property on or off the lot on which the structure is proposed. (Effective 11/29/99)

12.01.235 The Zoning Board of Appeals may impose conditions on the granting of such special permit which are designed to insure that said standards are met. Subsections 11.01.600, 11.01.700, 11.01.800, 11.01.900 and 11.01.1000 shall apply to the granting of any such special permit by the Zoning Board of Appeals. References in said subsections to the "Commission" shall be deemed to be to the Board of Appeals.

12.01.236 The Zoning Board of Appeals may make such regulations and establish such requirements as it deems fit in order to carry out its duties under this section.

12.01.240 Certificate of Approval of Location. To approve the location of gasoline stations, motor vehicle dealerships, and motor vehicle repair garages as defined by State Statutes; and in the case of new locations including site expansion subject to prior Special Exception & Site Development Plan Approval by the Planning and Zoning Commission.

12.01.250 Prohibited Variances. Use variances are explicitly prohibited in all zones. In instances where an existing legal non-conforming use has been established, this prohibition shall not limit the Zoning Board of Appeals from granting a use variance for a less intrusive non-conforming use subject to the terms and provisions of Section 9.03.

12.01.300 Procedures

12.01.310 Applications. All appeals and applications made to the Zoning Board of Appeals shall be in writing, on forms prescribed by the Board, and each appeal or application shall fully set forth the circumstances of the case. Every appeal or application shall refer to the specific provision of the regulations involved, and shall exactly set forth as the case may be, the interpretation that is claimed, use which is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the same should he granted.

12.01.320 Fees. At the time of filing an application, the applicant shall submit an application and/or appeal fee in accordance with the fee schedule, as determined from time to time by the Zoning Board of Appeals, or the actual cost of publication of the public hearing if greater than the fee, plus the cost of transcribing the proceedings of such hearing should the Zoning Board of Appeals require transcription for any purpose, including, without limitation, court action, advertising and processing.

12.01.330 Public Hearing. The Zoning Board of Appeals shall hold a public hearing on all applications and appeals and notice such hearings in accordance with the provisions of Section 8-3c(b) of the Connecticut General Statutes.

12.01.331 The applicant shall provide written notice of the time and place of such public hearing to persons who are owners of land which is within 500 feet from the land which is the subject of the hearing. The notices shall be on a form provided by the Zoning Board of Appeals and shall be mailed no less than ten (10) days before the hearing date. The applicant shall provide a Certificate of Mailing (form PS 3877) and Affidavit stating that the mailings were accomplished according to this section to the Zoning Board of Appeals clerk before the date of the public hearing. The Board and Commission shall be exempt from this requirement.

12.01.340 Board Action. The Zoning Board of Appeals shall decide each case within the time period allowed by Section 8-7d of the Connecticut General Statutes. Notice of the decision of the Zoning Board of Appeals shall be published in accordance with State Statutes.

12.01.400 Revocation and Rehearing

12.01.410 Revocation. When any variance or Special Permit granted by the Board of Appeals is utilized, the use, buildings and other structures shall comply in all respects with the final findings of the Board of Appeals. Any deviation from these findings which has not formally been approved by the Board of Appeals shall be considered a violation of these Regulations and shall be cause for the rejection or revocation of a variance or Special Permit, or the institution of such enforcement actions and/or imposition of penalties as are authorized by the Connecticut General Statutes. Before the Zoning Board of Appeals may revoke its action in granting such variance, it shall hold a public hearing thereon, of which the applicant and property owner in each case shall be given notice and afforded an opportunity to be heard.

12.01.420 Rehearing. No application for a rehearing shall be presented to the Zoning Board of Appeals within a period of 6 months from the date of a decision of the Zoning Board of Appeals as provided in Section 8-6 of the Connecticut General Statutes, which decision denied the application; unless, in the opinion of the Zoning Board of Appeals, there has been an unusual change in conditions, or an error in the decision, or new evidence warrants a rehearing.