

GIANT'S NECK BEACH ASSOCIATION  
ZONING BOARD OF APPEALS

*2015*

Dear Applicant:

Enclosed is the package of materials you requested concerning the Giant's Neck Beach Association ZBA. These materials include:

- (1) Instructions for Applications (4 pages);
- (2) Application (3 pages) and Exhibit A (1 page); and
- (3) Certification of Notification of Appeal/Request for Variance (1 page).

Please read all of these materials carefully. If you have any questions, please feel free to contact me or any other member of the ZBA.

Very truly yours,

Mark Kulos  
Chairman, GNBA ZBA

327 Broadway  
Norwich, CT 06360  
(860) 887-1741  
mkulos@snet.net

GIANT'S NECK BEACH ASSOCIATION  
ZONING BOARD OF APPEALS

**Instructions for Applications**

A. The application to the Giant's Neck Beach Zoning Board of Appeals consists of three pages, plus a one page Exhibit (Exhibit A). There is also a separate Certification of Notification of Appeal/Request for Variance. For your application to be considered properly filed, you must submit to the Chairman or Secretary of the ZBA:

***(1) On or before the application deadline (if any such deadline applies):***

(i) the signed original plus two (2) copies of the completed application form;

(ii) a check for \$150.00 made payable to the Giant's Neck Beach Association;

(iii) three (3) copies of the complete legal description of the property that is the subject of the application (this is usually found in the deed to the property, sometimes it is marked as Schedule A), which can be obtained from the land records on file at the East Lyme Town Hall. Please note that the "Vision Appraisal" information sheet does *NOT* constitute the legal description of the property); and

(iv) a sketch (scaled drawing) showing the dimensions of the affected property as well as all existing building(s), proposed structure(s) or addition(s). If a professionally produced plan, A-2 survey or other drawing is submitted, then the location of all setback lines and proposed changes to the setback lines must be included on the submitted materials. Please include all rights of way, easements, driveways, sidewalks and any unusual topographical features unique to the subject property (rock outcroppings, steeply sloped areas, wetlands, etc.). Please limit the size to 11" x 17", unless professional plans and blueprints are submitted.

***and***

***(2) Within fourteen (14) days of the filing of the application materials listed above:***

(i) the signed Certification of Notification of Appeal/Request for Variance.

Please take careful note of the substantive filing requirements and their deadlines. Failure to submit any of the required items by the applicable deadline may invalidate your application.

**B.** You must answer all questions on the application form. If a question does not apply, please indicate “not applicable.” If you need additional space, please attach separate sheets of paper that clearly identify the question to which you are responding. Please also note that photographs, architectural drawings, maps, etc., are very useful to the ZBA in considering your application. You are encouraged to provide as much detail and supporting information as possible with your application.

**C.** Specific items in the application form are addressed below:

**Items 1-4. *Applicant Information.*** Please provide your full name, the home address to which you want ZBA correspondence sent, the phone number at which you can be reached and – if you would like to be contacted via e-mail – your e-mail address. If the applicant is not the property owner, please also provide the property owner’s full name and address. If you are applying on another person’s behalf, please indicate the capacity in which you are acting (attorney, etc.) and indicate the appropriate party with whom the ZBA should communicate.

**Items 5-7. *Affected Property Information.*** The “affected property” is the property about which you are requesting a variance or appealing a zoning decision.

Please provide the complete street address and, in item 6, the assessor’s map information about the affected property. The assessor’s maps are available for public inspection at the East Lyme Town Hall. Item 7 requires the applicant to identify all owners of contiguous property and owners of property within one hundred (100) feet of the affected property. This information can be obtained by reviewing the assessor’s maps at the East Lyme Town Hall or from the on-line East Lyme GIS maps. Please also note that within fourteen (14) days of filing the application, you must submit to the ZBA Chairman the separate Certification of Notification of Appeal/Request for Variance, which certifies that you have provided notice to each of these property owners. The form of the notice you must provide is set forth in Exhibit A to the application. You must mail your notice to the other property owners via first-class U.S. mail.

**Items 8(A) and 9.** These items relate to requests for **variances**. Item 8(A) requires an explanation of the purpose of the requested variance. In response to this question, please describe what type of variance you are seeking (for example, side-yard setback, front-yard setback, lot size, etc.) and the nature of the proposed changes (for example, “to add a porch”, “to build a one-car garage”, etc.).

You are required in **Item 9** to describe the exceptional difficulty or unusual hardship on which your request is based. Please note that “hardship” is central to the ZBA’s consideration of your request. You have the burden of demonstrating that – absent the granting of a variance – you are unable to make reasonable or practical use of your

property. Connecticut courts have stated that a valid hardship cannot be either self-imposed or solely financial. Because a variance is granted for a property and remains in effect for all subsequent owners, hardship is a term that applies to the conditions or characteristics of the property and does not relate to an owner's inability to fulfill a purely personal wish. The granting of variances is governed by Section 8-6(a)(3) of the Connecticut General Statutes, and is further discussed in detail in Robert A. Fuller, *Land Use Law and Practice* at Chapter 9. These sources are available at any of the state's law libraries.

You are *strongly encouraged* to familiarize yourself with the requirements for the granting of variances and be prepared to explain at the hearing how the unusual characteristics of your property create a legal hardship and justify the granting of a variance.

You may be represented by legal counsel at the hearing or some other representative may be designated by you to speak on your behalf. Expert testimony from land surveyors, architects, engineers and others may be presented. Interested persons and neighbors will be allowed to speak both in favor or in opposition to your application.

While the following does not in any way constitute legal advice and is not intended to be a complete list, some of the criteria the ZBA considers with respect to variances are the following:

- (i) Does the applicant have reasonable use of the property without the variance?
- (ii) Do extraordinary physical conditions peculiar to and inherent in the affected property amount to more than a mere inconvenience to the owner, and do those conditions arise out of the lot itself rather than the personal situation of the current owner of the lot?
- (iii) Would adhering to the GNBA zoning regulations deprive the applicant of substantial rights commonly enjoyed by other owners of lots subject to the same regulations?
- (iv) What is the minimum variance that can be granted that would give the owner reasonable use of the property? Or, what is the least we will allow the owner to violate the zoning regulations that satisfies all parties?

**Items 8(B) and 10.** These items relate to **appeals**. If you are appealing from the decision of the Zoning Commission, you must provide a detailed explanation of the basis for your allegation that the Zoning Commission or ZEO acted erroneously.

**Item 12** requires you to submit with your application a copy of the minutes of any Zoning Commission meeting/hearing at which action was taken with respect to the affected property. This does not apply if you are seeking a variance without having submitted an application to the Zoning Commission.

#### **D. Additional Information**

(i) All **appeals** from the Zoning Official's or Zoning Commission's decision must be filed with the Chairman or Secretary of the ZBA within 30 days of the date of the action from which the appeal is entered. There is no similar time limit by which a request for a variance must be filed. You may file your application in person with or by mail to the Chairman or Secretary of the ZBA.

(ii) After your complete application has been filed, the Chairman will schedule a public hearing. Hearings are held at the GNBA clubhouse or at such location as the Chairman designates. You will be notified of the date and time of the hearing. You or your representative must appear at the hearing or the ZBA may deny the application.

(iii) If the requested variance is granted in whole or in part, the applicant is required to file the Notice of Decision setting forth the terms of the variance ("Notice") with the Town Clerk's office of the Town of East Lyme. (The "Notice" is prepared by the ZBA following the hearing and forwarded to the applicant via certified mail.) The variance will not become effective until the Notice is recorded on the land records by the Clerk. There is a fee payable to the East Lyme Town Clerk to record the Notice.

(iv) Appeals from the ZBA's decisions may be taken to the Superior Court no later than fifteen (15) days from the date when notice of the decision is published in a newspaper.

(v) Site Inspection. ZBA members may examine the property to familiarize themselves with the site before the hearing. It would be helpful if the corners/or outlines of any proposed structures are either staked out or marked with spray paint in the desired final location on the property at least a week before the meeting if practicable and without causing permanent harm to the property.

(vi) Please note that according to GNBA zoning, the distances to setback lines are measured from the roof eaves and/or overhangs of all structures. Any propane tanks or air conditioning compressor units (or other protruding devices) which extend beyond the roof eaves will shorten the distance to the setback lines. Also, town roads may extend into the property beyond the tarred portion of the road (this is especially important on corner lots which generally face roads on two sides).

(vii) You must win four out of five votes for an appeal or variance to be granted. This is a tough burden and ZBA actions are granted sparingly. Be well prepared for the hearing and have alternatives in mind in case you lose.

**(End – Instructions)**

GIANT'S NECK BEACH ASSOCIATION  
ZONING BOARD OF APPEALS

**APPLICATION**

**Applicant Information**

(1) Name: \_\_\_\_\_

Owner(s) of the affected property, if  
different from applicant:

\_\_\_\_\_

(2) Home  
Address:

\_\_\_\_\_

\_\_\_\_\_

(3) Phone:

\_\_\_\_\_

(4) E-Mail:

\_\_\_\_\_

**Affected Property Information**

(5) Street  
Address:

\_\_\_\_\_

\_\_\_\_\_

(6) East Lyme Assessor's Map No. \_\_\_\_\_ Lot No. \_\_\_\_\_

Existing Lot Coverage \_\_\_\_\_%

Proposed Lot Coverage \_\_\_\_\_%

**ZBA USE ONLY:**

Date Application Received: \_\_\_\_\_

Application No. \_\_\_\_\_

Date of Hearing: \_\_\_\_\_

Action Taken: \_\_\_\_\_

Date Certification Received: \_\_\_\_\_

**(7) Contiguous properties and properties within one hundred (100) feet of the affected property.** Identify all owners of property that is either contiguous to or within one hundred feet from any point of the affected property:

Name:

Address:

|       |       |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

(Attach additional sheets if necessary)

**Nature of the Application**

(8) This application is a(n):

☐ (A) Request for variance of Section(s) \_\_\_\_\_ of the Giant's Neck Beach Association Zoning Regulations. The purpose of the requested variance is:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

☐ (B) Appeal alleging error in the Zoning Official/Commission's actions under Section(s) \_\_\_\_\_ of the Giant's Neck Beach Zoning Regulations.

(9) If you are requesting a **variance**, describe in detail the exceptional difficulty or unusual hardship on which your request is based. Attach additional sheets of paper if necessary.

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(10) If you are alleging that the Zoning Official/Commission committed an **error**, explain the basis of the allegation. Attach additional sheets of paper if necessary.

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(11) Has any previous variance request or appeal been made with respect to the affected property? \_\_\_\_ (NO) \_\_\_\_ (YES). If yes, attach an additional sheet explaining when such request/appeal was made, the nature of the request/appeal and the outcome.

(12) I have attached hereto a copy of the minutes of all Zoning Commission meetings/hearings (or ZEO order/citation) at which action was taken concerning the affected property.

**(13) I, the applicant, hereby certify that the above information, and all information on any attached sheets, is true and correct to the best of my knowledge and further hereby authorize members of the Zoning Board of Appeals to inspect the affected property as they feel necessary.**

\_\_\_\_\_  
(Signed)

\_\_\_\_\_  
(Date)



## EXHIBIT A

Item 7 requires the applicant to identify all owners of property that is either contiguous to or within one hundred (100) feet of the affected property. The applicant must further notify all such owners via first-class, U.S. mail, postage prepaid, and then submit to the Chairman of the ZBA a Certification of Notification of Appeal/Request for Variance within fourteen (14) days of the filing of the application. The Certification must attach a copy of the actual notice sent to other property owners.

The notice required by Item 7 must be substantially similar to the following text:

**Notice is hereby given that [*name of applicant*] has filed an application with the Giant's Neck Beach Zoning Board of Appeals (ZBA) for [*type of application, e.g., a variance, an appeal of the zoning official's action, etc.*] relating to property located at [*street address of affected property*]. This application has been made in order to [*describe nature of proposed change to the affected property*]. You may appear at the public hearing on this application or send a representative. You may also write to the ZBA to express your position on this matter. The date of the hearing has not necessarily yet been determined. Prior to the hearing a legal notice will be published twice in The Day, a local newspaper of general circulation. Such notice, which will contain the date, time and location of the hearing, will also be filed with the records of the GNBA at the East Lyme Town Hall and posted at the Helen Lena Clubhouse in Giant's Neck Beach.**

**Written statements concerning the application or questions concerning the hearing can be directed to the Chairman of the ZBA. The current Chairman is: Mark Kulos, 327 Broadway, Norwich, CT 06360. He can also be reached via e-mail at [mkulos@snet.net](mailto:mkulos@snet.net).**

**(End – Application)**

GIANT'S NECK BEACH ASSOCIATION  
ZONING BOARD OF APPEALS

**Certification of Notification of Appeal/Request for Variance**

I, \_\_\_\_\_[name of applicant], do hereby certify  
that on \_\_\_\_\_[date], I caused to be mailed via first-class U.S. mail, postage prepaid,  
to those persons identified in item 7 of the ZBA Application as owners of property either  
contiguous to or within one hundred (100) feet of the affected property (the "Notified Owners"), a  
notice substantially similar to the notice contained in Exhibit A to the ZBA Application. A copy of  
the notice that I sent is attached hereto.

The Notified Owners are<sup>1</sup>:

Name:

Address:

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I do hereby further certify that all information provided herein - and in any attached sheets -  
is true, and I acknowledge that any false information may cause the denial of my application or  
revocation of any action taken by the ZBA.

|                               |                 |
|-------------------------------|-----------------|
| _____<br>(Signed - Applicant) | _____<br>(Date) |
|-------------------------------|-----------------|

<sup>1</sup> The list of Notified Owners in this certification should match that set forth in response to item 7 of the Application. If there are any differences between the lists, please explain on a separate sheet of paper.