SECTION 11. ZONING BOARD OF APPEALS

A. Administration. **11-1**
B. Variances. **11-1**
C. Sale of Gasoline. **11-2**

11.A. ADMINISTRATION.

The Zoning Board of Appeals shall have all the powers and duties delegated to it by the General Statutes of Connecticut, including appeals from the enforcement of these Regulations and the review and approval of requests for variances.

11.B. VARIANCES.

11.B.1. Conditions.

No variance shall be granted by the Zoning Board of Appeals unless the Board can reasonably find that, owing to conditions especially affecting the parcel but not generally affecting the district in which it is situated, a literal enforcement of the Regulations would result in exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare secured, and provided further that the following conditions are met:

a. the hardship is the result of the particular circumstances of the site and was not created by the applicant or a predecessor in title;

b. the hardship differs in kind from hardships imposed by these Regulations on other properties in the district;

c. financial loss resulting from these Regulations does not constitute the cause for the application for a variance;

d. the variance is the minimum variance necessary in order to allow reasonable use of the property;

e. the variance is in harmony with the general purpose and intent of the zoning district and other provisions of these Regulations; and,

f. the variance will not adversely affect public health, safety, and welfare.

11.B.2. Additional Provisions for Use Variances.

a. No use variance shall be granted by the Zoning Board of Appeals for any parcel located within a RA-8, RA-20, RA-40, or RA-80 zone.

b. No commercial or industrial use may be permitted by variance in a RMF-10, RMF-6, RMF-4, or R-3 zone except for properties with facilities previously used for commercial or industrial purposes, provided that such variance meets the conditions specified above.

c. A variance shall not be granted to change a special exception use to a permitted use. [Rev. 11/26/2011]

d. The Zoning Board of Appeals shall not grant a variance to allow a use not permitted presently under any zone in these Regulations.

11.B.3. Additional Provision for Variances.

No variance shall be granted by the Zoning Board of Appeals for any provision of Section 7.C. et seq. for lots located within the Public Water Supply Watershed Protection Zones.

11.B.4. Administration of Variances.

a. Referral to Commissions.

Upon receipt of an application for a use variance, the Zoning Board of Appeals shall at the same time refer such application to the Planning Commission and the Zoning Commission for review and report. Said Commissions shall have thirty (30) days upon receipt of the application to respond to the Board. The Board shall not close its public hearing until such reports have been received or until the thirty (30) day period has elapsed, whichever comes first.

b. Record of Decision.

Following the approval or denial of a variance, the Zoning Board of Appeals shall state upon its record the reason for its decision. If a variance is approved, the Board shall describe specifically the exceptional difficulty or unusual hardship on which its decision is based and why the variance is in accordance with each of the conditions specified above.

c. Fees.

A fee of $200.00 shall accompany each variance application per lot.

d. Additional Insurance.

Applicants are advised that if a variance is granted from Section 7.A., Floodplain Zones, the cost of flood insurance, as determined by others, may increase commensurate with the increased risk resulting from having the lowest floor elevation below the base flood elevation.

11.C. SALE OF GASOLINE.

The Zoning Board of Appeals is hereby designated as the agency for the City of Danbury charged with the authority to grant a certificate of approval for a use involved in the sale of gasoline or any other product under the provisions of Section 14-321 of the CGS, as amended, as required for obtaining a license from the State of Connecticut Commissioner of the Department of Consumer Protection.

In determining the suitability of a location for a business involved in the sale of gasoline or any other product under the provisions of Section 14-321 of the CGS, as amended, the Zoning Board of Appeals shall determine whether the use proposed is a use permitted in the zoning district in which the site is located. Application to the Zoning Board of Appeals for said approval shall be submitted prior to or simultaneously with the submission of an application to the Department of Planning and Zoning for approval of the site plan or Planning Commission for approval of the Special Exception, as appropriate, for the proposed use in accordance with Section 10 of the these Regulations.

Notwithstanding the above, the granting of a certificate of approval by the Zoning Board of Appeals shall not in any way abrogate or annul other regulatory and administrative provisions of these Regulations pertaining to said uses.