

B BOSTON INSPECTIONAL SERVICES **Zoning Board Of Appeal Process**

A Guide to the City's Zoning Board of Appeal Process

The City of Boston *Inspectional Service Department* provides assistance with issuing licenses and permits required for residential and commercial construction in the City of Boston.

Boston is working to make it easier to obtain permits by streamlining the process. This guide was developed to assist Boston residents, property owners and contractors through the permitting process, while at the same time clarifying how Boston's Zoning Code and the appeals process help enhance the character of our neighborhoods and discourage inappropriate development.

A Word About Zoning

Zoning regulates the use, density, dimensional boundaries and height of privately owned buildings and land. To a certain extent the City of Boston's Zoning Code serves the purpose of a planning board for smaller projects. It allows owners and developers to build projects as long as the proposals fall within the requirements of the Zoning Code. For example, it may allow a homeowner to erect a small addition, but prevent an auto body shop from operating in a residential district.

The City of Boston's Zoning Code was enacted in 1964, and has been modified numerous times since. These revisions recognize the uniqueness and architectural culture of Boston's neighborhoods.

In fact, most neighborhoods outside the immediate downtown area were once towns that have been annexed over the years. To date there are 18 neighborhood districts, 9 downtown districts, 14 types of special purpose overlay districts (including [groundwater conservation](#), greenbelt protection, etc...) and several dedicated residential, business, industrial and open space districts contained in the base code. Zoning is in place to allow the construction or use of buildings, structures or real property which conform to the aesthetics of a neighborhood. Zoning also promotes smart growth, environmental sustainability and fair housing.

To find information about uses for a particular property, the first step is to determine the [zoning district and subdistrict where the property is located](#). You also have to be on the lookout for any overlay districts, because that could affect the zoning. The [BPDA Zoning Viewer](#) provides the ability to search an address for the applicable zoning district information. By typing an address into the search bar you can learn about the zoning district, any overlay districts. There will also be a link to the section of the Zoning Code for the zoning district that applies to a specific property.

Once you have the zoning district and subdistrict, you will need to look at the use tables for the district. The use tables will identify which uses are allowed and which uses require zoning relief from the ZBA. To find this information, there are two options. The first option is a link to the main zoning article and the tables on the page with the zoning district information from the website above. The second option is to go directly to the [Boston Zoning Code](#). Here, you can find the main zoning article for each district along with the use table and other tables that contain key zoning information.

Once you find the use table for the appropriate zoning district and subdistrict, there will be a list of uses with the letters A, C, or F. A is an allowed use. C is a conditional use, which

requires a conditional use permit from the ZBA. F is a forbidden use, which would require a variance from the ZBA. When you are looking at the use tables, you should also pay special attention to any footnotes.

After determining whether a use is allowed or will require zoning relief, you should next look to the dimensional tables for the zoning district. The dimensional regulations impose requirements for the size of lots that can be built upon and the size of structures that can be built. For example, depending on the district, there might be a minimum lot area or minimum lot width. There might be a minimum amount of frontage on a street. There might be minimum front yard, rear yard, and side yard requirements. There might also be a maximum building height or maximum floor area ratio (which is the ratio of the gross floor area of the building to the area of the lot).

Each zoning article also contains specific provisions that explain how the dimensional and use regulations apply or set requirements for off street parking, roof structures or the location of the main entrance, along with other zoning requirements. There could also be an overlay district (such as the Groundwater Conservation Overlay District, the Greenbelt Protection Overlay District, or an Interim Planning Overlay District) that applies to your property. If an overlay district applies to your property, it should be identified in the Zoning Viewer when you look up your property. If an overlay district applies, there may be additional zoning regulations that apply to a proposed project.

There are also definition sections in the Zoning Code (which are located in Articles 2 and 2A) that contain the meanings of key zoning terms. You should consult the definition sections, the provisions of the article that applies to the zoning district, and the overlay district section (if applicable) in addition to the use and dimensional tables when determining what uses might be allowed on your property or what structures might be allowed.

COVID-19 NOTE: The Board has modified many of its procedures because of the COVID-19 pandemic in order to best allow the Board to continue its work while protecting public safety. This Guide reflects those changes; many of which will remain after the conclusion of the public health emergency, and some that may not.

As of the publication of this Guide, the Board continues to conduct its hearings virtually via the WebEx platform in accord with [An Act Extending Certain COVID-19 Measures Adopted During the State of Emergency](#) that was signed by Governor Baker on June 16, 2021. To ensure the hearing of the ZBA is open to the public, members of the public may access the hearings through telephone and video conferencing

Frequently Asked Questions

- **Who Makes Up the Zoning Board of Appeal (ZBA)?**-The ZBA is composed of [seven members and seven alternate members](#) who are appointed by the Mayor. Each serves a three-year term. The ZBA generally holds two hearings and one subcommittee hearing per month. Hearings are held on Tuesdays beginning at 9:30 a.m. in City Hall, Room 801. Subcommittee hearings are held one Thursday per month beginning at 5:00 p.m. Note: [Additional meeting dates may be added.](#)

*The zoning advisory subcommittee consists of a three member board and applies to 1-2 family residential projects and to small businesses under 35,000 square feet. The recommendations of the subcommittee are brought before a full board at the next hearing for a vote. The main goals for the subcommittee are expedited hearing dates and to free up time for the full member hearings to focus on larger projects.

- **What is the Function of The Board of Appeal?**-The ZBA hears appeals to grant zoning relief under the code or grant special permission to build through a conditional use permit. If a project does not fit the use or dimensional requirements, a building permit cannot be issued. The applicant may appeal to the ZBA to ask for permission to build something that does not meet the requirements of the Zoning Code. The applicant must convince the ZBA they meet the criteria to be excused from complying with one or more requirements of the Zoning Code. If the ZBA grants the appeal, the applicant can continue with the permitting process. Similarly, the ZBA also has the authority to hear requests for relief from the State Building Code along with appeals of orders or decisions of the building commissioner.
- **When and Where Do I File The Appeal Form?**-An appeal must be filed within 45 days from the date of the refusal letter issued by the Boston Inspectional Services Department (ISD). The easiest way to file an appeal is to use our [online portal](#). Appeals can also be filed in person, or by a representative at the ISD building located at 1010 Mass Ave., Boston.
- **Which Agency Provides Reviews & Recommendations for Appeals to the ZBA?**-The Boston Planning and Development Agency ([BPDA](#)) is the planning agency for the City. This agency reviews most appeals seeking zoning relief to the ZBA and submits written recommendations to the ZBA. BPDA recommendations are advisory only. The ZBA makes the final determination whether to grant or deny any zoning relief.

The [BPDA](#) and the [Mayor's Office of Neighborhood Services](#) may also solicit and/or

receive input from abutters and community groups and, if appropriate, will arrange meetings between builders and neighborhood groups. A representative from these agencies will attend all hearings. All of these agencies stand ready and willing to assist the applicant.

- **What role do City Councilors have in the ZBA Hearings?**

City Councilors or their aides attend community meetings and ZBA Hearings and make recommendations to the ZBA to approve, defer or deny an appeal. The Councilors and their staff members can also assist the applicant in navigating the zoning appeal and community process. Recommendations from government officials, such as city councilors, are advisory only. The ZBA makes the final determination whether to grant or deny any zoning relief.

- **When and where is the Agenda Posted?**-The agenda is posted 48 hours prior to the hearing and can be found on the City's [website](#) under public notices.

- **How do you know if the Appeal has been Approved or Denied?** -After hearing all the information, the ZBA will vote on a decision which will be announced at the hearing. The ZBA's decision will become final after a written decision is filed with ISD. The person asking the ZBA for relief will be mailed a copy of the ZBA's written decision after it is filed and notices of the decision are mailed to abutters. We have created a [ZBA Tracker](#) which allows viewers to use an interactive map to view projects that are seeking relief by clicking on the neighborhood in question on the map or by typing in the address which provides the following additional details for each proposed project:

Frequently Used Terms

- **As of Right** is a project that meets the requirements of the Building and Zoning codes, In other words the project does not require Board Relief.
- **Conditional Use Permit** is a type of zoning relief that allows a use that is identified as conditional in the Zoning Code. The ZBA is the entity with the authority to grant Condition Use Permits after determining that the required criteria are met.
- **Deferral** is a continuance of a hearing on a ZBA appeal to a later date.
- **Design Review** is a process in which the BPDA reviews projects for consistency with existing design principles for zoning districts or specified under Small Project Review or Large Project Review. The ZBA may also require Design Review as a proviso when granting zoning relief.
- **Dimensional Regulations** govern the minimum size of lots, the size of structures that can be built, and the location of where a structure can be built on a property. Common examples of dimensional regulations include minimum lot size, frontage, setbacks (otherwise known as yard requirements), floor area ratio (FAR), and height.
- **GCOD, GPOD & IPOD:** The Groundwater Conservation Overlay District (GCOD), the Greenbelt Protection Overlay District (GPOD), Interim Planning Overlay District (IPOD) And the Neighborhood Design Overlay District "NDOD" are examples of overlay districts that might apply to a proposed project. There are other overlay districts, but these are some of the most common. GCOD responds to concerns about groundwater levels on areas built on filled lands, GPOD is intended to protect open space along certain scenic roads, and IPOD is interim zoning while planning for potential rezoning occurs.
- **Long Form** is a type of building permit for major or structural alterations to an existing building, for building new buildings, for changes in occupancy, for use of premises, for expanding living space in a dwelling, and for work involving egress. Long form permit applications are reviewed for compliance with the Building and Zoning Codes and require documents and plans stamped by licensed building professionals.
- **Nonconforming Use or Structure** is a pre-existing use or structure that became nonconforming with zoning requirements when the existing zoning changed or new zoning regulations were adopted.



- **Setbacks** set forth the minimum distance from front, rear and side property lines required for a building or structure. They are known as yard requirements in the Zoning Code (i.e. front yard, rear yard, side yard).
- **Short Form** is a type of building permit for minor alterations to existing buildings. There is generally no zoning review of a short form and usually plans or drawings from a licensed building professional are not required.
- **Variances** are a type of zoning relief that the ZBA can grant to allow a forbidden use or a structure that does not conform to dimensional requirements.
- **Zoning Code Refusal Letter** is a letter issued by ISD when a project does not meet the zoning requirements. The letter identifies which provisions of the Zoning Code that are not met. The letter is a prerequisite to filing an appeal to the ZBA for zoning relief.
- **Building Code Refusal Letter** is a letter issued by ISD when a project does not meet one or more sections of the State Building Code. The letter identifies which provisions of the State Building Code that are not met. The letter is also a prerequisite to filing an appeal either to the State Board of Building Regulations and Standards "BBRS" or to the City of Boston "ZBA" for building code relief.



The Steps For the ZBA Appeal Process

The Steps in the ZBA Appeals process include:

- *File an Appeal*
- *Schedule Community Process / Abutters' Meeting*
- *ZBA Hearing*
- *Written Decision*
- *Building Code Review*
- *Permit Issues*

Step One: *File Appeal*

Once a long form permit application has been denied and the applicant has received a Zoning Refusal Letter, they have 45 days from the date of the refusal letter to file an appeal.

The easiest way to file an appeal is to use our [online portal](#). You may also obtain appeal forms, along with detailed instructions, at ISD, 4th Floor during the hours of 8:00 a.m. - 4:00 p.m., Monday through Wednesday, Thursdays 8:00 a.m. to 7:00 p.m.

Applicants must submit or upload through the [online portal](#) (1) an original typed document requesting the appeal, (2) the Zoning Refusal Letter and (3) an authorization letter (but only if an agent or other authorized party other than the applicant prepares the form). The property owner's name and signature must be on the appeal form.

If an attorney, agent or other authorized party prepares the form, a letter of authorization **must** accompany it. Note: A commercial tenant may file on behalf of the owner, providing the tenant has a letter of authorization from the owner.

After your appeal is accepted, an email notification will be sent to the applicant prompting them to sign into their portal account to pay the fees. The fee for filing an appeal is \$150 for all Residential buildings with three units or less and \$150 for each city or state violation for all other buildings or residential buildings with more than three units.

Fees may also be paid to the cashier at 1010 Mass Ave., 4th Floor, at the time of filing the appeal form. Payment must be made in the form of cash, money order, personal check, MasterCard, or Visa.

ISD will then provide the appellant a poster with the appeal information to post at a property.

Step Two: Schedule Community Process / Abutters' Meeting

Applicants must contact the [Mayor's Office of Neighborhood Services](#) (ONS) to begin the community process. The ONS liaison will facilitate the abutters' meetings and any other required meetings for the community process. Applicants should also meet with the local neighborhood groups to discuss their proposal. The ONS liaison will inform ZBA staff when the community process is complete and ZBA staff will schedule a hearing date for a hearing before the ZBA.

All ZBA hearing dates are tentative and subject to change, pending the formal notification process.

Legal notice of the hearing including the date, time and place of the hearing, a description of the proposed project and the code violations is mailed to the applicant, as well as other persons deemed by the ZBA to be affected, including immediate abutters, local elected officials, and any party requesting notification. Notice is also published in *The Boston Herald* at least 20 days prior to the hearing date.

The applicant may elect to withdraw their appeal at any time before notices are sent and the hearing is advertised. Requests for withdrawal must be in writing

Step Three: ZBA Hearing

The applicant must appear for the hearing at the date, time and location scheduled. An applicant may be represented by a lawyer, architect or other professional or may represent themselves at the hearing.

The ZBA holds hearings at Boston City Hall:
1 City Hall Square, Room 801
Boston MA 02201

Subcommittee hearings are held at:
1010 Massachusetts Avenue, 5th Floor
Boston, MA 02118

The ZBA will hear appeals in the order in which they appear on the hearing agenda. The Secretary will read the case into the record by stating case number, address, project description and violations. The applicant will then be asked to state their name for the



record and present their case in support of their appeal.

The applicant should state the reasons why they should be granted the zoning relief requested (e.g. a variance or conditional use permit). The applicant should also be prepared with supporting evidence such as architectural plans, photographs, building models, letters or petitions signed by abutters or any other evidence that supports their appeal. After the applicant has presented their case to the ZBA, the ZBA will hear advisory comments, in support and opposition, from elected officials or their representatives and from members of the community.

The ZBA will make its decision by motion and vote. A ZBA Member will make a motion and another ZBA Member must second the motion. Five ZBA Members must be in favor of the motion for the motion to carry and become the decision of the ZBA. Often, the decision of the ZBA will include conditions, or “provisos,” which must be followed to maintain the relief granted.

In most cases, the ZBA will make a decision at the hearing. On occasion, the ZBA may decide to continue, or “defer”, the matter to a later date.

**COVID-19 Update-* Hearings are currently being held virtually via the WebEx platform due to the ongoing public health emergency. The hearings are being conducted online in accordance with Governor Baker’s executive order suspending certain provisions of the open meeting law. To ensure the hearing of the ZBA is open to the public, members of the public may access the hearings through telephone and video conferencing.

Plans must be submitted at least two weeks in advance of the hearing to ensure they are reviewed and approved by an examiner. If you have supporting documents or materials such as presentations, please make sure that you email them to isdbboardofappeal@boston.gov at least a week before the hearing. Public comment should be submitted at least 48 hours before the hearing. You may wish to hire a lawyer, architect, or any other professional to assist with your appeal.

For virtual hearings, members of the public will enter the hearing as “Attendees” which means you will not see yourself on screen and you will remain muted until administratively unmuted when asked to comment.

The ZBA ambassador is available to answer questions about the ZBA procedures and offer instructions on how to participate in the hearing via WebEx an hour before the hearing starts. You can also view our WebEx guide [here](#). Questions and concerns can also be emailed to the ambassador at zba.ambassador@boston.gov.



Please email ZBAPublicInput@boston.gov for public comment.

The applicant cannot cancel a hearing date after it has been advertised and the abutters have been notified. They may choose to be represented by another party if they are unable to appear personally. The agent may proceed forward with the case or request a deferral.

*Please note the ZBA may in its discretion grant a deferral, but is not obligated to do so.

If the applicant chooses not to continue the appeal process, they may advise the ZBA that they wish to withdraw the appeal. Upon a request to withdraw, the ZBA usually dismisses the appeal without prejudice. However, this request should be made prior to the merits of the case being heard. A dismissal without prejudice would allow the applicant to initiate the appeal process again at their convenience without waiting a full year.

Step Four- *Written Decision*

The vote of the ZBA to grant the relief at the hearing is not the final step. A decision must be written and signed by the ZBA and filed with ISD. If an applicant is represented by counsel, the attorney will provide a first draft of the decision for the Executive Secretary to review for accuracy before presenting to the ZBA for signature. If the applicant is not represented by counsel, the Executive Secretary will draft the decision to present to the ZBA. Decisions must be filed with ISD within 90 days of the hearing, but that time can be extended by the ZBA. However, decisions are typically filed with ISD before the 90 day deadline.

If the *ZBA approves a request for zoning relief*, the applicant receives either a conditional use permit, a variance, or an IPOD permit depending on the relief requested. When granting any zoning relief, the ZBA may impose conditions or provisos on the relief, which the applicant must comply with to keep his or her relief. Examples of common provisos include BPDA Design Review, limitations on the hours of operation, or a sunset provision (which limits the duration the zoning relief will exist).

If the *ZBA denies an appeal*, that means that the applicant did not receive zoning relief and ISD will not issue a permit for the proposal. It also means that the applicant cannot file an application for the same project for a year from the filing date of the written decision. The applicant could file an application for a different project, but not the same project.

If the *ZBA denies a request for zoning relief without prejudice*, it still means that the applicant did not receive the zoning relief and ISD will not issue a permit for the proposal. The difference is that the applicant does not have to wait a year to be able to file an



application for the same project.

It is currently the policy of the Board that decisions are signed electronically and provided to the ZBA Members for their review and approval.

After the written decision has been signed by the ZBA and filed with ISD, the ZBA administrative staff will send notice of the ZBA decision. All individuals who were notified of the public hearing will receive notice that the decision has been filed at ISD. There is a 20 day appeal period from the date the decision was filed with ISD. "Persons aggrieved" by a ZBA decision may file an appeal in Suffolk Superior Court, but the appeal must be filed with the Court within the twenty day period.

ISD does not issue the long form permit associated with the zoning relief until the decision is signed and filed and twenty days have passed from the date of filing, all other reviews have been completed (e.g. building code review by ISD, Conservation Commission review (where applicable), Landmarks review (where applicable), etc.), and any provisos that the ZBA included in the zoning relief granted (e.g. BPDA Design Review) have been met.

NOTE: A review by Landmarks would be required on long form permit applications that fall within certain historic overlay districts. A review by Landmarks would also be required before a demolition permit can be issued. A demolition permit is a short form permit that has its own checklist of requirements, which includes Landmarks review. When an applicant plans to demolish an existing structure and build a new structure, a separate demolition permit (short form permit) will be required to demolish the old structure in addition to the long form permit to build the new structure. If you are planning a project that includes demolition, it is recommended to reach out to the Landmarks Commission at the beginning of the process.

Step Five - *Building Code Review*

Frequently, ISD's review for compliance with the State Building Code occurs after the ZBA appeal process. Many times the applicant will submit only preliminary drawings that allow for a zoning review before the ZBA appeal process and will wait to submit the more detailed drawings required for a building code review until learning if they have received the required zoning relief. In these instances, before the permit can be issued, ISD will require that the more detailed building code drawings be submitted and will review them for compliance with the State Building Code.

Step Six - *Permit Issued by ISD*

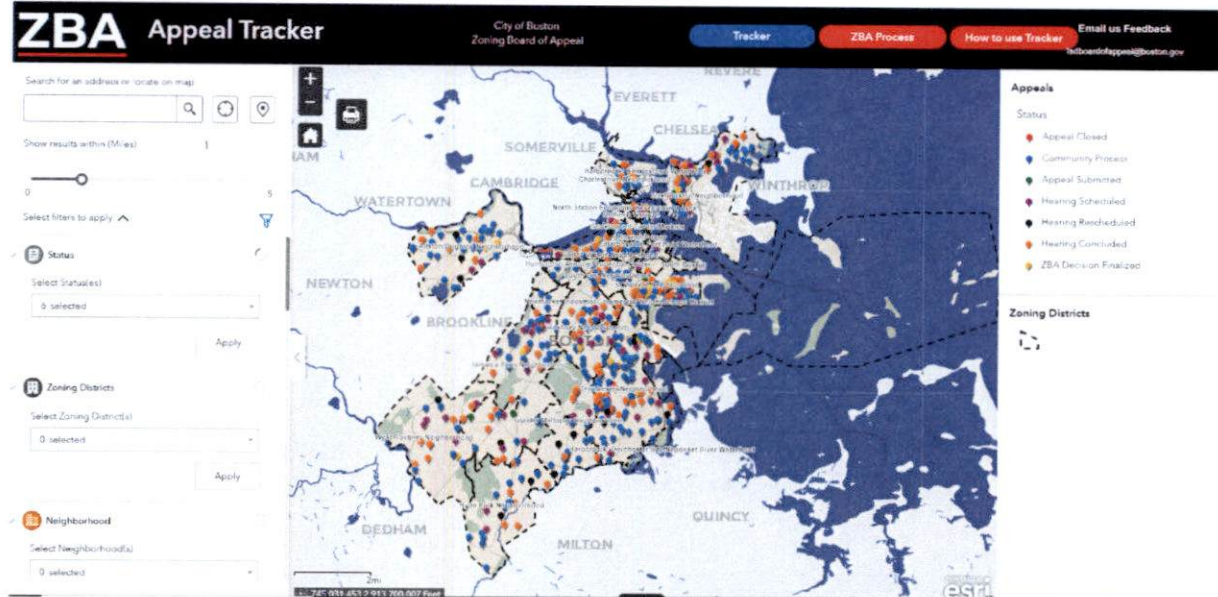
After zoning relief is obtained (and the applicant has compiled with any applicable provisos) and the building code review has been completed, the permit will be issued. However, sometimes other City agencies must sign off on the project (such as the Conservation Commission or the Landmarks Commission) before ISD can issue a permit.

NOTE: It is extremely important and certainly in your best interest to complete the process to the final step. The permit and/or occupancy certificate cannot be issued until all the paperwork is in place and all requirements are met. If the process is not finalized, it may be necessary in the future to initiate the entire process once again, from the very beginning.

ISD has a Customer Service Representative to guide constituents through the permit application process and refer them to the appropriate department. Customer Service Staff also known as “Constituent Services” members are reflective of a philosophy that the Department is a service-based agency whose processes must be accessible and understandable to the customer.



ZBA Tracker



The [ZBA Tracker](#) allows viewers to use an interactive map to view projects seeking zoning relief by clicking on the neighborhood in question on the map or by typing in the address which provides the following additional details for each proposed project:

- The status of the appeal
- Date and location of an appeal
- Deferral date
- Hearing result
- Application numbers
- Zoning District
- Date of Submission
- Community process
- Hearing scheduled
- Address of the proposed project
- Status of project
- Contact Information
- Appeal type

[Inspectional Service Department](#)

Plans and Zoning Division

1010 Massachusetts Ave.

Boston, MA 02118

617.635.5300

Isdpzreview@boston.gov

[Board Of Appeal](#)

1010 Massachusetts Ave. 4th Floor

Boston, MA 02118

617.635.4775

***For applicants and the public to inquire about the status of appeals or for applicants to submit materials for their hearings.

ISDboardofappeal@boston.gov

***For the public to submit their comments and concerns about any appeals

ZBAPublicInput@boston.gov

[Boston Planning & Development Agency](#)

Boston City Hall, 9th Floor

Boston, MA 02201

617.722.4300

[Mayor's Office of Neighborhood Services](#)

Boston City Hall, Room 805

Boston. MA 02201

617.635.3485

