



## BURLINGTON ZONING BOARD OF APPEALS

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### **Burlington Zoning Bylaw**

[http://www.burlington.org/town\\_government/town\\_clerk/bylaws.php](http://www.burlington.org/town_government/town_clerk/bylaws.php)

## **Information and Frequently Asked Questions**

### **Timelines and Deadlines to Remember**

**4 weeks** – completed applications must be received 4 weeks prior to the Board of Appeals next regular meeting.

**30 days** – completed application must be submitted within 30 days from the receipt of denial letter from the Inspector of Buildings.

**65 days** - BOA must hold a hearing within 65 days from the date of receipt of completed application.

**2 weeks** - legal notice must appear for 2 successive weeks prior to the hearing.

**2 weeks** -Town Clerk and abutters receive legal notice 2 weeks prior to the hearing.

**100 days** – the BOA must submit their Decision to the Town Clerk within 100 days from the date the application was filed.

**20 days** – After the Town Clerk receives the Decision from the BOA, there is a 20 day statutory appeal period. Petitioner may bring paperwork to the Town Clerk for appeal certification on the 21st day.

**1 year** – Variance granted by BOA must be acted upon within one year of its receipt.

**2 years** - Waiting period to resubmit an application that has been denied by the BOA.

The most common variances requested of the Board of Appeals are for setbacks and signage. Contact the Inspector of Buildings to request a zoning interpretations.

Side/Front/Back Yard Common Setbacks/Density Regulations (Article V, Section 5.2.0):

Minimum front yard: twenty-five (25) feet

Minimum side yard and rear yard: fifteen (15) feet

Minimum side yard and rear yard from pool: fifteen (15) feet

Sign Regulations (Article XIII): There are many bylaws relative to many types of signage in and locations in which they are allowed. Review the town's zoning bylaw.

## **Frequently Asked Questions**

*How do I know what the setbacks are from my zoning district?*

- The most common request is for front, back inside yard variances.
- Minimum front yard: twenty-five (25) feet
- Minimum side yard and rear yard: fifteen (15) feet

***How do I look up zoning regulations? Is there anyone who can help me?***

- **Burlington Zoning Bylaws:**  
[http://www.burlington.org/town\\_government/town\\_clerk/bylaws.php](http://www.burlington.org/town_government/town_clerk/bylaws.php)\_Massachusetts 40B
- **Regional Planning Bylaws:**  
<http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40a/Section5>

If you are not sure if a variance is needed, request a zoning interpretation from the Inspector of Buildings. If a denial letter is received from the building department, the application for a variance must be submitted to the Board of Appeals within 30 days of that decision. (9.5.3).

***I've been told by the Building Department that I need to go before the Board of Appeals. Where do I go to get the application and how is it completed?***

Visit the Town Clerk's office to request an application or download an application from the Board of Appeal's website. It is important to read the back of the application and ALL requested items must be supplied with the application:

[http://www.burlington.org/departments/community\\_development/board\\_of\\_appeals.php](http://www.burlington.org/departments/community_development/board_of_appeals.php)

***What do I need to include in order for the application to be “complete”?***

- A copy of the Inspector of Building's decision;
- A list of abutters within three hundred (300) feet of the property;
- Four (4) typed mailing labels for each certified abutter – provided by the Board of Assessors;
- Filing fee (\$100.00 for residential and \$250.00 for commercial); \$5,000.00 for Comprehensive Permits.
- Description of hardship per MGL, Chapter 40A, Section 10.
- Signed authorization for Daily Times Chronicle to bill direct for legal notices to publish twice
- Quick Reference Checklist
- One original and 12 copies of a certified plot plan must be submitted.
- Sign Permits need to have sketches of proposed sign showing size, type & illumination ( showing outputs in units of Lumens or NITs)

***When will my hearing take place?***

Carefully plan your timeline as it could take up to three (3) months from the time the application is filed to the end of the twenty (20) day statutory appeal period. (MGL Chapter 40A, Section 15). The deadline to receive the completed application is twenty-one (21) business days prior to the day of the hearing. The BOA meets the first and third Tuesday of every month.

***Do I need a certified plot plan?***

Yes, for any alterations to a dwelling, it is imperative:

- Maximum size: twenty-four (24) inches by thirty-six (36) inches;
- Minimum size: eight and one half (8 1/2) inches by eleven (11) inches.
- The scale may not be less than one (1) inch = forty (40) feet.
- The North point must be visible.
- The plan should show all existing or proposed structures and distance to lot lines.
- Remember to include dimensions and locations of any easements and the location of any Flood Hazard District.

***What do I need to provide if applying for a sign?***

You MUST include a sketch of the proposed sign showing the specific sign size, the type of sign, the measure of illumination (lumens), which elevation, position on building, distance from nearest residentially zoned land and distance from nearest public way. A sketch or "photographic representation" plan of how the final design will appear on the property should be provided. It is important that the drawing or depiction be to scale. (For more information, review Burlington's Zoning Bylaws, Article XIII: Sign Regulations, Section 13.1.0.)

***What happens after the hearing?***

A Decision by the board must be made within one hundred (100) days after the date of filing and when it is filed, the applicant will receive a copy of the signed Record of Proceedings with an original legal notice, the original Certificate of Grant, Decision Letter, and a letter of instructions. Once the twenty (20) day appeal period passes without an appeal being filed, the applicant, on the 21st day, may pick up a Certified copy of the Decision from the Town Clerk's Office and record it at the Registry of Deeds. Proof that the decision has been filed at the Registry of Deeds must be brought to the Building Department before a Building Permit will be issued.

***How long may I hold the Variance before starting work?***

One year.

***Can I file for a building permit before the appeal period expires?***

The Building Inspectors may review your permit application prior to the appeal period expiration; however, you will NOT be issued a building permit until after the mandatory twenty (20) day appeal period expires.

***During the hearing, if I believe that my request will be denied, what are my options?***

You can request to withdraw your application, without prejudice, and re-apply to the BOA with new information that you believe will help your request for a variance.

***What if my appeal is denied?***

Any application that is denied shall not be acted favorably upon within two (2) years after the date of final unfavorable action unless the Board finds, by a vote of four (4) members of the Board, specific and materials changes in the conditions upon which the previous unfavorable action was based; and unless all but one (1) of the members of the Planning Board consent thereto and after notice is given to parties in interest of the time and place at the proceedings when the question of such consent will be considered (Burlington Zoning Bylaw 9.5.6).

**BASIC INFORMATION FOR APPLICANTS**

**Application: IT IS MANDATORY TO READ THE INSTRUCTIONS ON THE BACK OF THE APPLICATION.** Complete all lines on the application, attach a denial letter from the Inspector of Buildings and submit with all required material as requested on the application. Do not leave anything blank, including the description, in order to avoid any ambiguity or uncertainty as to your intent in seeking approval for a variance.

- **Deadline and Fee:** Completed applications must be received twenty-one (21) business days prior to the hearing with the fee of \$100.00 for residential and \$250.00 for business with checks being made out to the "Town of Burlington."
- **Notification:** The town prepares the legal notice to be published in the Daily Times for two (2) successive weeks prior to the hearing after approval of the applicant. The Town Clerk posts notification two (2) weeks prior to the hearing. (Burlington Bylaw 9.6.1). Notices contain date, time, place of the public hearing, property address, petitioner's name, dimensions and nature of relief requested. (Burlington Bylaw 9.6.4). Notices are mailed to abutters within three hundred (300) feet of the property line two (2) weeks prior to the hearing. (Burlington Bylaw 9.6.2).
- **Meetings:** Hearings are held on the first and third Tuesday of each month in the Main Town Hall Meeting Room, 2nd, 29 Center St., Burlington. Confirm the date and location with the legal notice which will be mailed to you and check the town's website in case the meeting has changed:  
<http://www.burlington.org/calendar.php>
- **Hardship:** based on MGL, Chapter 40A, Section 10, petitioners must prove hardship when requesting a variance. The description of the hardship must be included with the application and it must be verbally explained at the hearing.
  - That owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant.
  - That desirable relief may be granted without substantial detriment to the public good.
  - That desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of such ordinance or bylaw.

## **RECORDING DECISION AT REGISTRY OF DEEDS IN ORDER TO OBTAIN PERMIT:**

<http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40a/Section1.1>

MGL Chapter 40A, Section 1.1 states in part that "no variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk and that no appeal has been filed or that of such appeal has been filed, that it has been dismissed or denied and that the decision is recorded in the Registry of Deeds. The fee for recording or registering shall be paid by the owner or applicant."

## **APPEALING A DECISION MADE BY THE BOARD OF APPEALS:**

<http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40a/Section1.7>

Any person aggrieved by a decision of the Board of Appeals, including the applicant, an abutter, a resident, a business, and all others, must file their appeal within twenty (20) days in the Superior Court for the County of Middlesex or in the Land Court as described in Massachusetts General Law Chapter 40A, Section 1.7: The Burlington Town Clerk's office must also be notified within twenty (20) days of any appeal filed in either the Superior Court Land Court.